THE Night doth vaniſh when the Sun appears,
And from all Clouds the ſmiling Morning clears:
Romiſh Night-Ravens, flie ye filthy Fowls,
And all ye Ceremonial Bats and Owls,
And Weather-cocks, whoſe painted Feathers ſtrange,
With every Wind God's Moral Law would change:
His Law is light, the Sun outſhines the Torch
Which blindly Virgins led to the Church Porch.
Ye Meadows deck your ſelves with flowry pride,
Hear of an Holy Marriage, and a Bride
Not given by Man, but God ſo great and wiſe,
And by him Married as in Paradiſe;
With Beauty bright as Fire, but chaſt and cold
As Snow, he Crowned her, and not with Gold.
The Iſſue fair, who did not Propheſie
Sacred Religion, Juſtice, Liberty,
And Property, providing of the beſt,
Both Bread, and Wine, for every Marriage Feaſt.

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Marriage by the Morall Law of God Vindicated

Against all Ceremonial Lawes of Popes and Bishops destructive to Filiation Aliment and Succession and the Government of Familyes and Kingdomes

The Lord hath been a Witnes betweene thee and the Wife of thy youth. Mal. 2 14.

1680.

Linea Recta Præfertur Transversali.

H—10—59

616:10

TO THE

READER.

THE Writers both of Nature and Policy agree, That the Original of all humane Society, was Marriage, by which Families were first composed, consisting of Men, their Wives and Children; and after Commonwealths composed of those Families; when by the multiplication of Generation they were grown so numerous, as to be no longer able to preserve their Religion, Liberty, Propriety and Lives, against one another, without some Union of all, obnoxious to receive or do Injuries under such Form of Government as was by the whole, or major part of the Fathers of Families, in their General Conventions of themselves or Representatives, Consented and Covenanted for the common Peace and Happiness of all; to both which, no Constitution of Laws was more necessary than those which concern'd Marriage, Filiation, Aliment and Succession, whereon not only private but publick Peace and War often depended; and therefore Marriage being the Ordinance of God, and not of Man, it was impossible to lay any secure Foundation of the Rights of the same, except on the Moral Law of God, and no other was long observed, either by the Jews or Gentiles, than what was as Christ saith, from the beginning, till to break in pieces the Divine Tables of the same, the Devil and the Priest conspired together to set up the Golden Calf of their Ceremonies,

and that Gods Ordinance ſhould be null and void without them, and no probation ſhould be admitted of their performance, but the Certificate of the Biſhop or High-Prieſt; by which, as to matter of Succeſsion to Inheritances and Kingdoms, They bound their Kings with Chains, and their Nobles with Fetters of Iron; *God was pleaſed to make the Contention concerning a Marriage, between* H. 8. *and the* Pope, *the occaſion of breaking off ſome of the Links, and of being a beginning of the Proteſtant Religion and Liberty; and I hope he doth now offer the like, or a greater occaſion, of propagating both, to the preſent Age and Poſterity, and not only to break all the Reliques of the Chains, but to file off the Collars themſelves, whereby the Biſhop of* Rome, *and the Provincial Biſhops, have long ſo gauled the Necks of Princes and People through all Chriſtendom; to the eaſing of which Burdens, I ſhould be glad, if thou, and ſo many other, more fit than my ſelf, would lend your hands; but ſeeing ſo many ſeeming to ſleep in the midſt of ſo great a danger, I hope it ought not to offend, if I hereby endeavour to awaken you, and to be therein as I ought to be, to my Power,*

Your Servant,

Will. Lawrence.

THE

CONTENTS

Of the First Book.

By what Law Marriage, Filiation, Aliment, *and* Succeſſion, *ought not, and ought to be Judged.* p. 1.

Not to be Judged by the Law of Moſes, *or Cuſtomes of the* Jews. 2

Not to be Judged by the Laws and Cuſtomes of Heathen Nations. 10

Not to be Judged by the Law Civil, Canon, or Feudal. 21

Not to be Judged by the Law of Mahomet. 26

Not to be Judged by Eccleſiaſtical Laws. 31

All Allegations of Coke *in behalf of Eccleſiaſtical Laws, anſwer'd.* ib.

Of the miſchiefs enſue from Eccleſiaſtical Laws. 43

1. *All Eccleſiaſtical Laws of Marriage were invented by Dæmons, Pagan Prieſts, or Popes.* ib.

The Hiſtory of the Devil appearing in the ſhape of Chriſt to Dr. Dee, *and tempting him and his Seer* Kelly *to Community of Wives.* 45

All prohibition of Marriage or Meat in any Ceremony or Circumſtance, not prohibited by the Moral Law of God, came from the Devil. 52

2. *The Final Cauſes of all Eccleſiaſtical Laws of Marriage, variant from the Moral Law of God, were Luſt, Covetouſneſs, and Ambition of the Prieſt.* 53

3. *They peſter the Three Kingdoms with an unneceſſary and exceſſive multitude of Laws.* 57

4. *They*

4. *They corrupt the choiceſt Proteſtant Wits in their Education, with Principles of Popery and Slavery.* 59

5. *They introduce divers weights and meaſures of Juſtice in the ſame People.* ib.

6. *They compell the Subjects* ad aliud Tribunal, *than* Cæſars *Judgment Seat*; ad aliud Examen, *than* per legem terræ; ad aliud judicium, *than* legale judicium Parium. ib.

7. *They expoſe the Subjects to Circuit of Action, Subornation, Perjury, and to be ground between two Milſtones of interferring Juriſdictions, Spiritual and Temporal.*

8. *Papal Laws of Marriage are inconſiſtent with a Proteſtant Prieſthood.* ib.

Not to be Judged by ſuch Laws of England, Scotland *or* Ireland, *as are Reliques of Popery, and contrary to the Law of God.*

Of the Law making Marriage a Sacrament. 65

Of the profound Popery of the Common Lawyers, of Tranſubſtantiation of two Perſons into one Perſon, and the miſchiefs thereof. 66

A Note taken at Kings-Bench-Bar *of the miraculous Tranſubſtantiation of a Shoulder of Mutton betwixt a Man and his Wife.* 71

Of the Law of Tranſubſtantiation of the Children of the Wife into the Children of the Husband, if within the Four Seas; and of Intails. 72

A further deſcant on the words of Littleton *and* Coke *concerning the ſame, and of Intails on Marriages depending thereon.* 73, & 75

Of the barbarous Law of Illegitimation, or making Children incapable to ſucceed to the Goods of their Parents, the Reformation thereof by the Emperor Anaſtaſius, *and the Deformation of the ſame again by the Strumpet* Theodora, *and ſucceeding Popes and Biſhops.* 79

That

That unlawful Marriages of Parents ought not to Illegitimate their Children. 80

Illegitimation of Children shews Popes and Bishops worse than Pagans, Infidels, Beasts, Monsters, Serpents. 82

Intails Feminine *cut off by Adoption or Institution, by the Father, of his natural Children Heirs.* ib.

Of the Law of Consensus non Concubitus facit Matrimonium. 83

Of the Pagan Goddess Juno, *and the Popish Mother of St.* Kentigern, *both got with Child without a Man.* 85

Of the Lady Ann *of* Britain *Married to the bare Leg of the Embassador of the Emperor* Maximilian. 86

Of the Lady Pulcheria *Sister to* Theodosius *the Emperor, Married to* Martianus, *the Lady* Etheldred *to two Husbands, the Lady* Amigunda *to the Emperor* Henry *the Second, the Lady* Editha *to* Edward *the Confessor, the Lady* Ann *of* Cleve *to* Henry *the Eight, all Married by Priests, but not by their Husband.* ib.

Of the Custom of desertion of Virgins after deflowring. 88

Of the desertion of the Lady Lucy *by* Edward *the Fourth, for the Lady* Jane Grey, *and the infelicity followed thereon, to them and their Children.* ib.

Of the like desertion by a Gentleman in Ireland, *after a Child born.* 89

Of the ancient Form of Marriage-Contracts, Se post concubitum in vitam non deserturum, *now repugnantly turn'd into* Verba de presenti.

Of the Law giving liberty of Temptation to a Minor, Married to an Husband, after Carnal knowledge to desert him for a Richer. 91

An example of the same in Scotland. ib.

Of the Law tempting Women to desert their Husbands, by giving them more Alimony than the Interest of their Portions. 94

Of

Of the Law of Divorce after Procreation of a Child, for Precontract, or Precopulation without Preprocreation. ib.
Stat. 3 *H.* 8. *cap.* 38. *against Precontracts.* 96
Edward *the Sixth abused by Papists in his Minority, to repeal his Fathers Act against Precontracts.* 98
Of the Law making private Marriage or Carnal-knowledge without publique Witnesses of a verbal Contract, Fornication. 101
Of the Law requiring Witnesses of Marriage and Filiation, where both are acknowledged by the Parents, and no third Party claims the Father, Mother, or Child. 109
Of the Law of Sequestration of a Woman, pendente placito, *Sued by two Corrivals, and Sentencing either Man or Woman to be restored* in Specie, *and not* in Value. ib.
Of the Law making all prohibited Marriages Null. 100
Of the Custom of Superalimentary Gifts, in consideration of Carnal knowledge between a Man and a Woman, either before or after Marriage. 113
A Satyr *against Mercenary Marriage.* 117
Of the Law giving Jurisdiction of the secret Causes of Divorce between Parents, and secret Uncleanness of Children in their Parents Houses, to publick Tribunals.
Of the Law compelling Parties Married, though mortal Enemies, to Cohabitation.
Of the Law of Divorce, à Mensa & Thoro.
Not to be Judged by Ceremonial Laws.
Of the absurd and ridiculous Ceremonies on which Priests would have Marriage, Filiation, Aliment, *and* Succession, *to depend.* 127
Marriage, Filiation, Aliment, *and* Succession, *ought only to be Judged by the Moral Law of God.* 130
Of the Final causes of Marriage, by the Law of God and Nature. 135

Of

Errata's in Verſe.

Lib. 1. p. 131. line 5. for *Moon* read *Morn*, p. 135. l. 36. for *leaſt* r. *ceaſe*, p. 223. *l.* 28. for *I ſee* r. *is with me*, p. 224. l. 9. for *all* r. *ſuch*, p. 225. l. 8. for *thanks* r. *there*, and in the ſame line after, for *there* r. *and*, l. 39. for *lightnings* r. *lightning*, p. 228. l. 5. add the word *(next)* before the word *(expel)* p. 392. l. 11. for *who burn would not?* r. *who burn would?* Lib. 2. p. 239. l. 31. for *Mariners* r. *Mariner*, l. 36. for *why* r. *who*, Lib. 3. p. 89. l. 8. for *their* r. *them*, l. 16. for *not babling* r. *no babling*.

Errata's in Proſe.

COntents to the Firſt Book relating to p. 88. for *is vitam* r. *invitam non deſerturum*, Lib. 1. p. 88. l. 8. add *invitam* before *deſerturum*, p. 90. l. 42. for *invitum* r. *invitam deſerturum*, p. 1. l. 11. for *or any Subjects* r. *on any Subject*, p. 4. l. 28. for *Harecloth* r. *Hayrecloth*, p. 17. l. 36. for *women were divorced* r. *women did divorce*, p. 23. l. 21. for *Affinity* r. *Conſanguinity*, p. 43. l. 11. for *Canon Law* r. *Common Law*, p. 93. l. 27. for *Common Law* r. *Canon Law*, p. 106. l. 31. for *pitty relieve him* r. *pitty to relieve him*, p. 110. l. 40. for *invitum fore Matrimonium* r. *Irritum fore Matrimonium*, p. 132. l. 36. add *and ſhall cleave to his wife*, p. 180. l. 11. for *eſtabliſhed* r. *aboliſhed*, p. 180. l. 42. for *Chancellors of State* r. *Councellors of State*, p. 210. l. 20. for *Sacrament* r. *Sacrifice*, p. 215. l. 28. for *Tyrant* r. *Pyrat*, p. 282. l. 23. for *there were Judges* r. *and Judges*, p. 120. l. 1. leave out *no*, l. for *Secreta Fori* r. *Secreta Thori*, p. 121. l. 25. for *falſe* r. *and the falſe*, p. 121. l. 43. for *take off Exiquenda officia Matrimonialia* r. *talk of Exiquenda officia Matrimonialia*, p. 257. l. 30. for *thinks* r. *think*, l. 27. for *that binds* r. *binds*, p. 265. l. 17. for *Obligatio libelli* r. *Oblatio libelli*, Lib. 3. Preface p. 10. l. 1. for *Algins* r. *Algive*. In the Contents relating to p. 160. for *Succeſſor or Male* r. *Succeſſor Male*, leaving out *(or)* p. 2. l. 16. for *ever that be* r. *Over that be*, p. 13. l. 10. for *wages* r. *ways*, p. 188. l. 25. for *Baſil* r. *Baliol*. In the Index ſee Bail, in line 36. for *Canon-Law* r. *Common-Law*.

OF

The Laws of *Marriage*, *Filiation*, *Aliment*, and *Succeſſion*.

Lib. I.

Of the Two Grand Queſtions concerning Marriage, Filiation, Aliment, *and* Succeſſion.

IT was the ſaying of one, *Se benè dividentem velut Deum ſecuturum*, And *Dichotomy* though the moſt difficult to do, is without diſpute if well done, the moſt excellent Diviſion and Method wherein any Diſcourſe can proceed, or any Subject; which made me indeavour, though not *paſſibus æquis*, to follow that way directed by the great Methodiſt of *Art*, *Ariſtotle*, or rather the greater director of Nature, God himſelf, of whom it may more truly be ſaid,

In duo diviſit quicquid in Orbe fuit.

The whole Queſtion therefore naturally depending on what ſhall be the Law, and who ſhall be the Judg, and all Parts of Argumentation, conſiſting either of Premiſes or Concluſion, & all Premiſes being either Negative, or Affirmative, I have as to Premiſes, ſtated the whole Controverſie of *Marriage*, *Filiation*, *Aliment*, and *Succeſſion*, Negatively and Affirmatively, under theſe Two great Queſtions following.

First, *By what Law they ought not, and by what Law they ought to be judged.*

Secondly, *By what Judg they ought not, and by what Judg they ought to be judged.* And theſe two Premiſes being proved, he will be an abſurd Logician, who denies the Concluſions following from them.

CHAP. I.

Marriage, Filiation, Aliment, and Succeſſion not to be judged by the Law of Moſes, *or Cuſtoms of the* Jews.

Divorce. DEut. 24. 1. It's ſaid, *When a man hath taken a Wife, and married her, and it come to paſs that ſhe find no favour in his Eyes, becauſe he hath found ſome Uncleanneſs in her; then let him write a Bill of Divorcement, and give it in her hand, and ſend her out of his Houſe. And when ſhe is departed out of his Houſe, ſhe may go and be another man's Wife. Her former Husband which ſent her away, may not take her again, after that ſhe is defiled, for that is abomination before the Lord.* Math. 5. 31. *It hath been ſaid, Whoſoever ſhall put away his Wife, let him give her a writing of Divorcement. But I ſay unto you, that whoſoever ſhall put away his Wife, ſaving for the cauſe of Fornication, cauſeth her to commit Adultery, and whoſoever ſhall marry her that is Divorced, committeth Adultery.* Math. 19. 3. *The Phariſees alſo came unto him, tempting him, and ſaying unto him, Is it lawful for a man to put away his Wife for every cauſe? And he anſwered, and ſaid unto them, Have ye not read, that he which made them at the beginning, made them Male and Female? And ſaid, for this cauſe ſhall a man leave Father and Mother, and ſhall cleave to his Wife, and they twain ſhall be one fleſh. Wherefore they are no more twain, but one fleſh. What therefore God hath joined together, let not man put aſunder. They ſay unto him, Why did* Moſes *then command to give a writing of Divorcement, and to put her away? He ſaith unto them,* Moſes, *becauſe of the hardneſs of your hearts, ſuffer'd you to put away your Wives, but from the beginning it was not ſo.* Here it is plain, Chriſt refers them to the Law of Nature, as the Law which was greater then the Politick, or Poſitive Law of *Moſes*. And this was only tolerated by *Moſes*, for the hardneſs of their hearts; and though it were lawful for *Moſes*, or any other Legiſlator, to tolerate a leſſer Evil, which he was not able by reaſon of the hardneſs of their hearts, to reſtrain

ſtrain, yet was it not lawful for the People to practiſe it, but they ſhould be puniſhed for it by God, though they were not by *Moſes*. And hence doth manifeſtly follow, That all thoſe Laws which were *mala in ſe*, and contrary to the Law of Nature, which was from the beginning, though Tolerated by *Moſes*, who was not able to reform them, yet were they not properly the Law of *Moſes*, but wicked Cuſtoms, which they received from *Ægyptians*, *Syrians*, *Canaanites*, and other Nations, and ought not to have been practiſed by the *Jews* then, nor by the Chriſtians now. Of Laws taken from the Cuſtoms of Idolatrous Nations, for a ſmall taſt take theſe that follow. *Exod.* 21. 2. *If thou buy an* Hebrew *Servant, ſix Years he ſhall Serve, and in the ſeventh he ſhall go out free for nothing.* Verſe 4. *If his Maſter have given him a Wife, and ſhe have born him Sons or Daughters; The Wife and her Children ſhall be her Maſters, and he ſhall go out by himſelf.* *Mahomet*'s was more fair then this; for he being Amorous of the Wife of *Zeid* his Slave, freely infranchiſed him, though he were not bound to do it, as the *Hebrew* Maſter was, and beſides his infranchiſement, gave him Money for his Wife. And thereupon ſaith, God *appointed him to Marry her, after ſhe was Repudiated, to the end that true beleivers might do the like, and not think it an Error, but what God hath appointed.* Alcor. Cap. 33. 260. And *David* did far worſe then *Mahomet*, as to the Wife of the Subject *Uriah*; his Example therefore is as unfit a Rule to judg Marriage by, as that of *Moſes* and *Mahomet*. *Levit.* 19. 20. It is ſaid, *And whoſoever lieth carnally with a Woman that is a Bond-maid, betrothed to an Husband, and not at all Redeemed, nor Freedom given her, ſhe ſhall be ſcourged: they ſhall not be put to death, becauſe ſhe was not Free: And he ſhall bring his Trepaſs-Offering unto the Lord, unto the Door of the Tabernacle of the Congregation, even a Ram for a Treſpaſs-Offering. And the Prieſt ſhall make an Atonement for him with a Ram of the Treſpaſs-Offering before the Lord; for his ſin which he hath done ſhall be forgiven him.* 1. This Law is unjuſt, for it puniſheth the weaker Veſſel, who is a poor Virgin, with ſcourging, and only fines the rich Lecher, a Ram; ſo he may commit Whoredom with as many betrothed Virgins, if not Free-women, for the price of a Ram apeice. 2. Here is nothing provided for ſatisfaction of the Damage of the Maſter, for the abuſe of his Servant, and diſhonour of his Family, nor of the Husband to whom ſhe was betrothed; but let him bring a Ram, his ſin ſhall be forgiven him, *totiès quotiès*, as 'tis the Cuſtom of ſome old *Pagan* Manners, and Manours, if the Copyhold Widow be unchaſt, ſhe ſhall forfeit her Copyhold, unleſs ſhe beſtride a Ram, and ride to the next Court, and ſay theſe Words following,

For my Incontinence I do this Task,
Therefore to have again my Land, I ask.

Numb. 21. 14, & 17. Notwithſtanding the *Midianitiſh* Women had quarter given them and were Captives, yet in cold blood *Moſes* more barbarouſly then the Heathens themſelves uſed to do, commands the Souldiers to kill every Male amongſt the little ones, and kill every Woman that have known Man by lying with them; but all the Women-children that have not known Man, by lying with him, keep alive for your ſelves. And *Deut.* 21. 11. The Souldiers are licenſed when they take Captive Women, after ſome idle Ceremonies of cutting their Hair and paring their Nails to lye with them, and turn them off again when they pleaſed; which examples, though from *Moſes*, who was no more infallible in this, then *David* in the act of *Uriah*'s Wife, of cruelty and uncleanneſs, are not to be followed, but abhorred of all Chriſtians.

The *Jews* had likewiſe a cuſtom of Contracting and Eſpouſing the parties before Marriage: of the great inconveniences of which ſhall be ſpoken after under the proper Title.

The ways of Marriage of the Jews.

Jewiſh Ceremonies of marriage, not appointed by *Moſes* Law.

Saith *Moſes*, *de Coſi* was either with Money, or Inſtrument, or Copulation; with Mony, as when they bought one to be their Wife; with Inſtrument, as when done by Contract in writing; by Copulation, as by lying with any ſingle Woman, though no *Conſenſus*, yet *Concubitus fecit Matrimonium*: Eſpecially if Conception followed, as appears in the caſe of *Jacob* and *Leah*, where there was no *Conſenſus* on *Jacob*'s part, but only *Concubitus & Conceptio*. At the *Jewiſh* marriage a Rabbi marries them, and if the Bride be a Virgin, Wine is to be drunk in a narrow-mouth'd Glaſs, and if ſhe be a Widow in a broad-mouth'd Glaſs, and an Egg muſt not be forgot to be thrown at the Bride and broken, to foretell an eaſie delivery.

The manner of the *Jewes* Marriage is, The Bridegroom wears about his Neck an Hare-cloth, the end of which the Rabbi puts on the Bride's head, after example of *Ruth*, who deſired to be cover'd with the skirt of *Boaz*; then the Rabbi takes a glaſs full of Wine and gives it the Brideman and Bride that they may drink, then he takes the Bridegroom's Gold Ring, and asks of the ſtanders by, if it be good and worth the money given for it; then puts it on the Bride's finger; then he takes another glaſs of Wine and prayes over it, and offers it to the married Couple to taſt, but the Bridegroom daſhes it againſt the Wall in memory of the deſtruction of *Jeruſalem*, ſo the Bridegroom in ſign of ſorrow puts on a black Cloak, and the Bride a black Hood. Mr. *Addiſon* tells of the *Barbary Jews*, That they are married at the Bride's Chamber, only by putting a Ring on the Woman's finger, and pronunciation of theſe words by the Rabbi, *Thou art Married or Sanctified unto this Man with this Ring according to the Law*: And when married they uſe a fooliſh Ceremony, if the Bride is a Virgin they give her Wine in a narrow-mouth'd Cup;

if

if a Widow, in a broad mouth'd Cup, and after the Bridegroom caſts a raw Egg at the Bride &c. And how the ſopperies of ſuch Ceremonies come by God's Law to make a marriage or no marriage, or legitimate or illegitimate the Child, no rational Man ever underſtood.

As to the determination of number of Wives by Nature, it ſeems to be according to the number ſhe her ſelf gives. As in the Eaſt and Southern climes, the Feminine number naturally exceeding the Males many fold. And in times of great deſtructions by Wars, ſuch as are foretold *Iſa.* 3. 25. *Thy men ſhall fall by the ſword, and thy mighty in War, and her Gates ſhall lament and mourn, and being deſolate, ſhall ſit upon the ground. And in that day ſeven Women ſhall take hold on one Man.* In the Kingdom of *Benym* amongſt the *Negro's*, the King hath five or ſix hundred Wives, and his Subjects keep 20, 30, 40, 50. 60. according to their ability; and the pooreſt ſort five or ſix, and ſome a Dozen. *Hierotinus* an *Arabian* King had ſix hundred Children by Concubines; ſo it ſeems exceſſive multiplication may be one reaſon againſt Plurality. It was a Law amongſt the *Garamants*, That when any Woman married, had three Children, ſhe ſhould be ſeparated from her Husband, becauſe a multitude of Children cauſe Men to have covetous hearts; and if any Woman bring forth more Children, they ſhall be ſlain before their Eyes. *Ariſtotle* in his *Politiques* thinks it profitable, That *Plebeians* ſhould not have too many Children, and therefore allows Divorce leſt the Wives ſhould bear too many. *Connubia mille, non illis generis nexus, non pignora curæ, ſed numero languet pietas. Claud. de Bell. Gild.* Amongſt the *Medes* antiently Polygamy was ſo far from being eſteemed a fault, that it was a puniſhment for a common Perſon not to have ſeven Wives, and for Noble Women to have leſs then five Husbands. *Heylin.* 814. Of the cuſtom of the *Jews* to keep one barren Wife and another to breed, *Selden de Jur. natur. lib.* 5. *pag.* 586. tranſlates out of a *Jewiſh* Rabbi theſe words, *Sub diluvium hominum mos erat, ut pro libitu binas ſibi duceret quiſque uxores, alteram prolis gratia, alteram in Concubitum; ea autem quæ prolis gratia haberetur, velut vidua quamdiu ſuperſtes eſſet; degebat, ſed ea quæ in Concubitum adhiberetur ſterilitatis, exhaurire ſolebat Poculum, ut ſterilis redderetur, atq; juxta virum accumbere ſolita, velut meretricio ornabatur habitu.* And in another place *ornata etiam velut nova nupta lautiores comedebat dapes; acerbius autem & durius tractabatur ſocia & lugebat vidua.* To which alludes *Job* 24. 2. as 'tis in the *Hebrew*, *he fed the Barren which brings not forth, but did no good to the Widow. Moſes* ſaith, *Curſed be he that lieth with his Siſter, the Daughter of his Father, or the Daughter of his Mother. Deut.* 27. 22. Yet *Abraham* allowed it in his time, and married *Sarah. And* Amram *took him* Jochebed *his Father's Siſter to Wife, and ſhe bare him* Aaron *and* Moſes: *and the years of the life of* Amram *were an hundred and thirty and ſeven years. Exod.* 6. 20. *Aretas* King of *Arabia Petræa* and *Herod* fell at ſtrife the one with the other for this cauſe, which enſueth. *Herod* the Tetrarch had married

Plurality of Wives.

One Barren and another Breeding Wife.

Inceſt.

married *Aretas* his Daughter, with whom he lived married a long time; afterwards taking his Journey towards *Rome*, he lodged with *Herod* his half Brother by the Father's ſide, for *Herod* was the Son of *Simon*'s Daughter, which *Simon* was the High Prieſt; and there being ſurprized with the love of *Herodias* his Brother's Wife, who was Daughter to *Ariſtobulus* their Brother, and Siſter to the great *Agrippa*; he was ſo bold as to offer her ſome ſpeech of marriage, which when ſhe had accepted, Accords were made between them, That he ſhould baniſh his Wife *Aretas* far from him; who complaining to her Father the *Arabian* King, of the injury done her by her Husband *Herod*, the ſame raiſed War between him and *Herod*. *Joſeph. lib.* 18. *cap.* 7. *de Antiq.* And *Aretas* overthrowing *Herod*'s Army, divers *Jews* were of opinion, That this Judgment fell upon him becauſe he had cut off *John*'s head, by the inſtigation of *Herodias ibid.* But as for this opinion divers believe that it hath been foiſted into *Joſephus*. *vid. Blondell. Hiſt. Sybill.* But as to the Point in queſtion of Inceſt, 'tis very clear, That *John* juſtly reproved *Herod* for marrying his Brother's Wife, whether there was a Judgment followed on it or not. But it cannot be infer'd that the cauſe why he reproved it, or why the War followed on him was Inceſt; but the cauſe thereof is more likely to be, becauſe he ſo wrongfully Divorced his firſt lawful Wife, and likewiſe cauſed his Brother's Wife to be Divorced from him, while his Brother was alive and Tetrarch of *Galilee*, that he might have her from him: So here was a double Divorce, matter enough to reprove without minding any Inceſt; which agreed likewiſe with the Doctrine of Chriſt, and 'tis manifeſt, that was the only cauſe of the War, and not any pretence of Inceſt; for *Aretas* would have raiſed the War alike if the wrong had been done his Daughter by a ſtrange Woman, as if it had been by a Kinſwoman: Therefore no Argument can be brought that St. *John*'s opinion was, this was Inceſt, nor that any Judgment happen'd for Inceſt, but rather for unlawful Divorces; ſo the marrying the Brother's Wife to raiſe up Seed to the Brother, ſeems a cuſtom tolerated for hardneſs of their hearts, and not to be imitated by Chriſtians.

Tryal of Virginity.

Tryal of Virginity, more wicked then the Bill of Divorce, for this was after the Husband had lain with her, and perhaps likewiſe he might have got her with child. *Deut.* 22. 13. It is ſaid *If any man take a Wife and go in unto her and hate her, and give occaſion of ſpeech againſt her, and ſay, I took this Woman, and when I came to her, I found her not a Maid: Then ſhall the Father of the Damſel, and her Mother, take and bring forth the Tokens of the Damſel's Virginity unto the Elders of the City in the Gate: and the Damſel's Father ſhall ſay unto the Elders, I gave my Daughter unto this Man to Wife, and he hateth her: and lo he hath given occaſion of ſpeech againſt her, ſaying, I found not thy Daughter a Maid, and yet theſe are the Tokens of my Daughter's Virginity; and they ſhall ſpread the Cloth before the Elders of the City, and the Elders of the City ſhall take that Man and chaſtiſe him, and they ſhall amerce him*

him an hundred Shekels of Silver, and give them unto the Father of the Damſel, becauſe he hath brought up an evil name on a Virgin in *Iſrael*. But if this thing be true, and the Tokens of Virginity be not found for the Damſel, then they ſhall bring out the Damſel to the door of her Father's Houſe, and the men of the City ſhall ſtone her with ſtones, that ſhe die, becauſe ſhe has wrought folly in *Iſrael*, to play the Whore in her Father's Houſe. *So ſhalt thou put away Evil from amongſt you.* This Cuſtom, as many others, the *Jews* learn't of the Heathen Nations, and was tolerated amongſt them for hardneſs of their hearts.

Leo Afer relates, amongſt the Inhabitants of *Fez* in *Africk*, the ſame wicked Cuſtom to be in uſe, and that before the Wedding Feaſt, the Bridegroom ought to deflower the Bride, and then they come and ſhew amongſt the Gueſts a filthy defiled Napkin with great Exultation, and a loud Voice, Proclaiming the ſame in as filthy words and behaviour. But if this cannot be ſhewen, it ſpoils the Wedding, and the Woman is turn'd away with great diſgrace. The like they do at *Zant*, where the Wedding Sheets are always kept. And amongſt the *Perſians*, where, if the Woman fail to give this Sign, they cut off her Ears, and turn her home with great diſgrace. And the like in divers other Heathen Nations, which Cuſtom, both with Heathen and *Jews*, is (1.) very immodeſt and filthy. (2.) very cruel and unjuſt, for as *Levinus Lemnius*, and other Phyſicians and Anatomiſts hold, theſe Signs are extreamly fallacious, and neither ſhew who is, or who is not a Virgin, whereby many innocent Perſons may be deſtroyed, and many wicked be juſtified, and therefore is no fit Precedent to be followed by Chriſtians.

We find likewiſe the Trial of Jealouſie preſcribed, *Numb.* 5. 18. *And the Prieſt ſhall ſet the Woman before the Lord, and uncover the Woman's head, and put the Offering of Memorial into her hands, which is the Jealouſie-Offering: and the Prieſt ſhall have in his hand the bitter water that cauſeth the Curſe. And the Prieſt ſhall charge her by an Oath, and ſay unto the Woman, If no man hath lain with thee, and if thou haſt not gone aſide to uncleanneſs with another inſtead of thy Husband, be thou free from this bitter water that cauſeth the Curſe. But if thou haſt gone aſide to another, inſtead of thy Husband, and thou be defiled, and ſome man have lien with thee beſide thy Husband; Then the Prieſt ſhall charge the Woman with an Oath of Curſing, and the Prieſt ſhall ſay unto the Woman, The Lord make thee a Curſe, and an Oath amongſt the People, when the Lord doth make thy Thigh to rot, and thy Belly to ſwell: And the Woman ſhall ſay,* Amen, Amen. *And the Prieſt ſhall write theſe Curſes in a Book, and blot them with the bitter water: And ſhall cauſe the Woman to drink the bitter water, that cauſeth the Curſe.* In *Loango* in *Africk*, if any is ſuſpected of Adultery, Witchcraft, Theft, or other Crimes, there is a little Tree with a ſmall Root, like a White Carrot, called *Imbunda*, on accuſation, the Prieſt aſſembles the accuſed Tryal of Jealouſie.

accuſed Parties, and ſcrapes a little of the Root into water, which makes it as bitter as Gall. One Root will ſerve for the Tryal of an hundred, the Prieſt beats it together with a Plantan ſtalk, and hits every one after they have drunk, with certain words: If they can walk by till they make Urine, they are free, but if they grow dizzy, they are knock'd oth' head, and dragg'd thence when dead. The *Matimbas* have the ſame Tryal of Adultery and other Crimes, with the ſame Root made into bitter water; the nature whereof is, if it be given in too great a Doſe, it ſtops the Urine, and flies up into the head, whereby the Party becomes dizzy, which if he be, here the Execution ſomething differs from the former, and all the People preſently fall upon them, and cut them in peices with Knives. At *Morumbay* in *Africk*, if any is ſuſpected to be guilty of Adultery, or any Crime, there is an Idol in a great Basket called *Morumbay*, and they are compelled to come thither, when accuſed, and each to kneel down, and ſay, *Mene queſa Cabumba Marumba*, that is, I come to make trial of my Innocence: And if he is guilty, he falls down dead, and if he is free, he is free'd. *Andrew Battle* ſaith, he ſaw ſix or ſeven in his time, that were put to this Trial. Amongſt the *Guineans*, the Prieſts have a Drink call'd *Enchion Kenow*, which the Inhabitants beleive hath ſuch a force and virtue from their *Fetiſſo* or *God*, that if any Woman ſuſpected of Adultery by her Husband, and brought to drink thereof for Trial, if ſhe be Guilty, the *Fetiſſo* will kill her, which makes the Woman accuſed, if Guilty, rather compound, and aſſent to be Divorced from her Husband, then run the hazard of the *Fetiſſo* on a Trial by that drink.

The *Americans* for the moſt part, if they find not their Wives Virgins, or if after, they commit Adultery, Divorce them, wherein they far excel theſe ſhameleſs and deviliſh Trials of *Jews* and *Ethnicks*, and the Water-Ordeal, and Fire-Ordeal, heretofore uſed by Chriſtians, of walking over Red hot Plow-ſhares bare foot, or the newer faſhion of putting Women to Self-accuſation, Canonical Purgation, and Compurgation in Epiſcopal Courts. Likewiſe amongſt Chriſtians I ſay, this ſimple plain proceeding of private Divorce, both amongſt the *Guineans* and *Americans*, by the light of Nature, far excels all the ſaid Tryals by *Jewiſh*, *Pagan*, or *Popiſh* Prieſts. Laſtly, It is clear from Chriſt's diſallowing the Bill of Divorce by the Husband, except for Fornication, and his allowing it by the Husband, when there was Adultery. He diſallows the Laws of Tryal of Virginity, and Tryal of Jealouſie, as well as he diſallowed the Bill of Divorce, without lawful cauſe. For the Tryal of Virginity and Jealouſie is far worſe, and ſhews greater hardneſs of heart, then the Bill of Divorce, in regard the Bill of Divorce, if the Husband find any uncleanneſs or diſhoneſty in his Wife, only puts her away, and ſaves both her Honour and Life; but the Tryal of Virginity and Jealouſie, permits the man firſt to lie with her, and perhaps to get her with Child, and then to

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ſtone her, or with bitter water to poiſon her, and her Child together, wherein the *Turk* is not ſo bad as the *Jew*. For though he buy his Wife, if after he finds her not as ſhe ſhould be, he will Divorce her, and though he loſe his Money by it, he will neither Stone nor Poiſon her, but give a Divorce, and ſave both her Life and Honour. The *Peguians* buy their Wives of their Friends, and when he is weary of her, he may ſend her home again, but he muſt then loſe the Money he gave for her. But if ſhe leave him, as ſhe may likewiſe do, then the Money is to be paid him back, which he gave for her.

The Cuſtoms of the *Jews* allowed them to make *Eunuchs*, as *Chron.* 28. 1. It is ſaid, *David aſſembled the Eunuchs*, and 2 *Kings* 9. 32. It is ſaid, *When* Jehu *call'd, after* Jezabel *had ſpoke to him out of the Window, that there looked out to him, two or three Eunuchs*, and 2 *Kings* 24. 12. It is ſaid, *And* Jehoiachin, *the King of* Judah, *went out to the King of* Babylon, *he and his Mother, and his Servants, and his Eunuchs*. *Origen* and the Sect of *Valeſians* gelded themſelves, and held, that it was impoſſible for any but Eunuchs to be ſaved: But later *Jews* allowed them not. And *Joſephus lib.* 4. *de Antiq.* ſaith, *Eunuchs are to be deteſted; becauſe they deprive themſelves of Manhood, and Power of begetting Children, neither is it lawful to geld Man or Beaſt*; and the Civil Law puniſheth it with Death, *Cod. lib.* 4. *tit.* 42. *De Eunuchis. Si quis poſt hanc Sanctionem in orbe* Romano *Eunuchos fecerit, Capite puniatur*, If any after this Law, ſhall make Eunuchs in the *Roman* World, let him be puniſhed with Death. I conclude, though there is much of the Moral Law mix'd amongſt the Laws of *Moſes*, which is immutable, and ought to be inviolably obſerved; yet not on the Authority of *Moſes*, but on the higher Authority of God himſelf, who writ them both in the Internal Tables of the hearts of men, and in the External Tables of his Works, which as to ſuch of them as are living Creatures, and concern Marriage, as Chriſt ſaith, he made them Male and Female. Then as to the Ceremonial and Judicial Laws of *Moſes*, they were all National, and belong'd only to the *Jews*, and they were generally taken by the *Jews* from the *Ægyptians*, and other Idolatrous Nations. And *Moſes* being not able to reform them in ſuch a ſtiff-necked people, except only as to Images, (for indeed all long Cuſtoms are hard to be broken in any People) was fain to Tolerate them for the hardneſs of their hearts, and they were many of them full of Superſtition and Injuſtice. Eunuch.

CHAP. II.

Marriage, Matrimony, Legitimation, or Succeſſion not to be judged by the Laws and Cuſtoms of Heathen Nations.

Chinois way of Marrying.

IN *China* the Governor and Vice-Roy in each Province, appoint a certain time and place, where thoſe that are willing to Marry, may and do come, where Twelve Principal Men are appointed Judges, before whom they preſent themſelves: Six Judges divide the Men into three parts, the rich, the indifferent, and the poor; the other ſix Judges in the mean while divide the Maids into the beautiful, the indifferent, and the unhandſome; thereupon the Judges give the very beautiful to the rich, and they give what the Judges appoint for them, the indifferent rich to the indifferent handſome, who pay nothing for them, and the unhandſome to the poor with the Money the rich paid, divided into equal Portions. *Joan Gonſales Hiſt. de la China*, P. 46. The like was done antiently by the *Babylonians*.

The *Indians* way.

Indorum virgines quum eſſe nubiles coperint in Publicum à Parentibus producuntur, concurrente, ut aſſolet, multitudine, libera illis datur optio è Juvenum turba, virum ſibi ſeligendi, quem virtute aliqua inſigniter præſtantem putent. Cælius lib. 18. cap. 31. The *Samoyeds* being a people bordering on *Ruſſia*, uſe to buy their Wives, and have no other Ceremony of Marriage, but agreement for the Price, which commonly is dear, they being their cheif Cattle, and the Woman brought and delivered to the man that bought her by her freind, and a Feaſt at his Tent there provided to entertain them, and at Night all departing and leaving the Man and Woman together there alone till next Morning. *Gourdon. Anno* 1614.

The *Jews* and *Romans* way was likewiſe buying and ſelling. The *Mahumetans* likewiſe give Money for their Wives, which when paid, the Contract is Regiſtred in the *Caddyes* Book, which ſerves for the Tole-Book, they paying the Market Fee, which is all the Formality of the Marriage. *Heyl.* 778. *Cæſar lib.* 4. *de bell. Gall.* ſaith, That amongſt the *Germans*, exchange of Wives was in uſe, and the *Indian* Hiſtories relate, That in *Calicut* the Cuſtom of exchange is ſtill reteined, and *Jerome* taxes *Cato Vtican*, that he lent his Wife *Martia* to his Friend *Hortenſius*, as *Appian* relates, 2 *Bell. Civ. Lucan lib.* 2. And *Plutarch* in *Numa*, that he did it by the Conſtitution of *Numa*. Theſe are the Marriages, theſe the Solemnities the Pontifical Laws have taught, and is there any ſtill ſo

Exchange of Wives. Lending Wives.

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ſtupid as to prefer the Laws of men before the Laws of God?

At *Gomera* it was heretofore the only ſign counted of their Hoſpitality, to let their Friends lie with their Wives, and receive theirs in Teſtimony of mutual kindneſs. *Heyl.* 105. For which reaſon there as in other places of the *Indies*, the Siſter's Son was uſually the Heir. The Common Councel or Senate of the *Canaries* or *Fortunate Iſlands*, who were both Magiſtrates and Preiſts, had, before Conquer'd by *Chriſtians*, the firſt Nights Lodging with every Bride. The Inhabitants of *Zant* ſolicit ſuch Merchants as reſort thither, to hire their Wives and agree of the Price. At *Pegu* when Merchant-ſtrangers come thither, they are provided a Houſe, and withal certain Maids of the City are ſent to him, out of whom he takes his choice, and agrees with her Friends at what rate they can, which is not much, to pay a certain Summ for the uſe of her, and this Maid attends during the time agreed, as a Servant and Wife, after which he may take another, but not during the time agreed.

In *Cunall*, a part of *Tartary*, they count it a great honour to have their Wives and Siſters at the pleaſure of others whom they entertain, of which being reſtrained by the great *Cham*, they petition'd him at three Years end to be reſtored to their old Cuſtom, affirming, They could never thrive ſince they left it: on which, Liberty was again reſtored, and they ſtill uſe it. *Heyl.* 857. At *Tangut* they think it not fit to tempt a Woman, but if ſhe offer her ſelf, they think it a great ſin to refuſe her Courteſie, *Heyl. ib.* At *Colchos* the Husband thinks it a Credit their Wives can pleaſe and be acceptable to others, to whom they proſtitute them, *Purchas* 342. The *Turks* are allowed four Wives, which must be alſo of his Religion, but he is allowed Concubines, Slaves, and of any Religion, as many as they can keep. The *Perſians* allow as many Concubines as they will, paying them Salary by Week, Month, or as they agree; And at the end of the time they are free, and may leave each other without other agreement. Plurality.

The *Tartars* by reaſon of their Plurality of Wives, have a multitude of Children. In *Monomotapa* they Marry as many Wives as they will, but the firſt is the Principal, and her Children only to inherit. The *Mogul* hath a Thouſand, the *Turk* is ſaid to have three Thouſand Women.

Amongſt *Barbarians* mention is made of πολυάνδρους, a People where Women had many Husbands, and amongſt the *Medes* which dwelt in the Mountains, 'tis ſaid, a Woman had five Husbands at once. It is ſaid that the *Lacedemonians* had anciently a Cuſtom, that one Woman ſhould have two Husbands, one to go to War, the other to abide at home. In *Malabar* the Women have many Husbands, either at once, or ſucceſſively, and if at once, they ſend their Children to them whom

them whom they think have moſt right to them. In *Calieut* ſome Women are related to have ſix or ſeven Husbands, and they Father their Children on which of them they pleaſe. The *Anſes* had Women in common, and the Child was to be reputed his, with whom the Woman choſe to live. Some report that *Gorgophan* Daughter to *Perſeus*, about *Anno Mundi* 2630. was the firſt Woman who Married a Second Husband. When *Myrrha* fell in love with her Father *Cynara*, *Gentes eſſe feruntur, in quibus & nato genitrix & nata parenti jungitur, & Pietas geminato creſcit amore.* Ovid Metam. lib. 10.

Second Marriage.

Inceſt.

The *Babylonians* allowed Marriage of Parents and Children. *Juſtin, lib.* 1. ſaith, That *Semiramis* was kill'd by *Ninus* her Son, becauſe ſhe would have lain with him: but *Oroſius lib.* 1. *cap.* 4. affirms, That ſhe was Married with her Son. *Curtius lib.* 8. ſaith, *In Regionem quam* Naura *appellant, Rex cum toto exercitu venit: Satrapas erat* Syſimithres *duobus ex ſua matre filiis genitis; quippe apud illos licitum parentibus ſtupro coire cum liberis. Alexander* came with his whole Army into a Region called *Naura*, where was a *Satrapas* called *Syſimithres*, who had two Sons whom he begat of his own Mother: For with them it's held lawful for Children to lie with their Parents. This *Syſimithres* together with her who was his Mother and Wife, being poſſeſſed of an impregnable Rock, ſcituate in the paſs into his Country, oppoſed *Alexander* in his entrance, and being Summon'd by him to yeild, he himſelf aſſented, but was over-ruled by the ſame Inceſtuous Woman his Mother and Wife, who ſaid, She would rather die then yeild; ſo much more valiant was ſhe then he, but in the end he over ruled her, and yeilded his Fort, and was content his two Sons ſhould militate under *Alexander*, who took them with him as a kind of a wicked Rarity.

Plutarch ſaith, That the *Cimbri* married their own Daughters, which Cuſtom was taken from them by *Marius*, who overcame them in *Germany* and triumphed over them. The *Quitteve* or King of *Sofala*, hath an Hundred Women, Queens and Concubines, and many of them his Aunts, Couzins, Siſters, Daughters, all whom he uſeth, ſaying, His Sons by them are the trueſt Heirs to the Kingdom, becauſe no mixture of blood; But none but the King on pain of death may marry Siſter or Daughter, *Jo. dos Sanctus.* At *Cape Gonſalvez*, they have a filthy Cuſtom that the King when his Daughters are grown, takes and keeps them for his Wives, and the Queens in like manner take their Sons, when they are grown up, and make uſe of them as Husbands. In *Ægypt* ſome of the *Ptolomies* married with their Siſters, and as it ſeems by *Seneca*, ſuch Marriages were not unuſual at *Alexandria*; for he ſaith, *Athenis dimidium licet*, Alexandriæ *totum:* and as *Turnelius* affirmeth at *Athens* they might Marry their own Siſters by the Father, ſuch as *Abraham, Gen. Cap.* 20. 12. ſaid of *Sarah, She is the Daughter of my Father,*

but

but not the Daughter of my Mother; and ſhe became my Wife. Whereby you ſee *Abraham* is cenſur'd by the Doctrine of *Seneca*, as an Inceſtuous Perſon; but *Lycurgus* permitted Siſters only to Marry by the Mother's ſide, but forbid to Marry Siſters of the Father's ſide. And *Arnobius contra Gent.* ſaith, That Inceſt was allowed amongſt many Nations of whom *Alex. ab Alex. lib. 1. gen. dier. C.* 24. hath made a Catalogue. *Cambyſes* amongſt the *Perſians* married his Siſter, ſo did *Artaxerxes*, ſo did *Darius*; and in *Ægypt* ſo did *Ptolomeus Philadelphus*, at *Rome Claudius* with *Agrippina* his Brother's Daughter, and *Caracalla* with his ſtep-Mother. *Opian* the Poet ſaith, That *Caracalla* Married *Julia* his own Mother. When *Cambyſes* had a mind to Marry his Siſter, he adviſed with the *Magi* to know, whether the Laws did allow it; who anſwer'd, They knew no Law which did allow it; But there was a Law which allowed the King of *Perſia* to do what he would. *Tapangoi*, the Father of *Guagna Capa*, was the firſt *Ingua* of *Peru*, who married his Siſter, that *Ingua's* might do it; and commanding his own Children to do it, permitting the Noblemen alſo to Marry their Siſters by the Father's ſide. Other Inceſt in the line aſcendent or deſcending, and Adulteries were puniſhed with death. The chaſt *Artemiſia* was the Wife and Siſter of *Mauſolus.*

——*Diique ſuas habuere ſorores,*
Ut Saturnus Opim junctam ſibi ſanguine junxit,
Oceanus Tethin, Junonem Rector Olympi. Ovid Metamor. 9.

In *Pozo* in *America* they marry. with their Neices and Siſters. The *Chinois* heed no degrees of Affinity or Conſanguinity, ſo the Sirnames differ, and therefore marry into the Mother's kindred be it almoſt never ſo near. If a *Tartar* die, his Son may marry all his Wives, except his own Mother and Siſters, ſo it is lawful for a Brother to marry the Widow of his Brother. *Polo. Pliny* in an Epiſtle to *Loratius*, ſaith, That the *Athenians* did uſe to marry Brothers and Siſters, but yet did not permit Uncles to marry their Neices, nor Aunts their Nephews. *Æmilius Probus* ſpeaking of *Cymon's* Marrying his Siſter *Elpinice*, *Habuit autem in Matrimonio ſororem nomine* Elpinicen, *non magis amore quam patrio more ductus: nam* Athenienſibus *licet eodem patre natas uxores ducere.* The *Arabians* had anciently a Cuſtom that one ſhould be Wife to all her Brothers, whereby they become all Brethren; and the eldeſt ſhould lie with her at Night, and at Day the other. Every one as they came firſt, ſet his Staff at her door, to give notice to the reſt to forbear, whereby they were all Brethren. An Adulterer was puniſh'd amongſt them with death. The *Britains* had Ten or Twelve Wives apeice, as *Caſar* ſaith, which they held common amongſt Brothers and Parents; and *Dio* ſaith,

The

The Children thus begotten were brought up in common amongſt them. *Euſebius* ſaith, That many *Britains* kept one Wife in common. In *Arabia* the *Happy*, it's accounted Adultery to lye with any Woman except of their own kindred, as Siſters, Mothers, Couſins, and the like: whom they likewiſe take to be Wives. It ſeems *Abraham*'s example and direction, to chooſe a Wife for his Son came hence. The *Banyans* Sons are Heirs to their Fathers Eſtates, ; but as a recompence, They are bound to maintain their Mother, and marry their Siſters, that they likewiſe may be provided for, out of their Father's ſubſtance. The *Goan Indians* have a cuſtom, That none muſt marry but in a family uſing his Father's Trade: To which end the ſeveral Trades are ſever'd one from another, and ſet apart in ſtreets by themſelves. *Linſchotten.* The Inhabitants of *Carthagena* allow not marriage with the Siſter, on this Tradition, That one who married his Siſter was for that offence carried, and confin'd to the Moon, where he ſtill remains the ſpot, or Man in the Moon.

Fornication. In *China* many charitable people, as they think themſelves, have given and bequeathed for the good of their Souls, Rents and Revenues, to maintain Houſes of Common women, who are to proſtitute themſelves to ſuch Poor as have no money freely, which they think a work of great merit. *Mendez.* In *China*, adultery with a Married woman is death. The Common women not being ſuffer'd to live within the Walls, but in the Suburbs, where they are educated to Singing, Muſick, and Dancing, and whatſoever is fit for Dalliance, and are for that end bought of their Mothers, and proſtituted for gain.

In a large ſtreet in *Pequin* in *China* dwell a great number of Curtezans, who are all under Protection of the *Tutan* of the Court. At *Cambalu*, Harlots have a Corporation. In the Countreys of *Cotam* and in *Pegin*, the Wives may marry new Husbands, if the old be abſent but twenty days. *Purch.* 427. Divorces are frequent amongſt the *Muſcovites*, for when they have a deſire to part, they accuſe each other, by ſuborn'd falſe Witneſſes of Adultery, or want of Devotion; by which, they are condemned without anſwering for themſelves. The Inhabitants of *Caſcar* have a Law, if the Husband or Wife is abſent from one another twenty days, the other is at liberty to marry again. *Heyl.* 856.

Divorce for abſence.

Divorce at pleaſure. *Diodorus Siculus* ſaith, That the *Egyptians* before they had any Laws, every Man had as many Wives as they pleaſed, and both parties were at liberty, as any other Companions, to come together, and part when either pleaſed: For they ſaid, It was impoſſible, if Men and Women ſhould be tied together, but the ſame muſt be with much trouble, contentions, and brawles. The *Tappinineers* in *Hercinia* beſtowed their Wives on other Men, after they had had two or three Children by them. *Purchas.* 351.

It was eſteemed a diſhonour, not only amongſt the *Indians*, but *Romans* and

and other Nations, for Ladys who lov'd their Husbands, to ſurvive them.

Conjugis audiſſet fatum Porcia Bruti,
Et ſubtracta ſibi quæreret arma dolor :
Nondum ſcitis, ait, mortem non poſſe negari,
Credideram ſatis hoc vos docuiſſe patrem.
Dixit, & ardentes avido bibit ore favillas,
I nunc, & ferrum turba moleſta nega. Martial.

Porcia killing her ſelf on news of the death of her Husband.

When *Porcia* heard of her dear *Brutus* ſlain,
Weapons ſhe ſought, withdrawn from her in vain :
Death, ſaid ſhe, not to be deny'd me is,
I thought my Father's death had taught you this.
She ſwallow'd Coals, and prondly ſpoke the word,
Deny me now to die by point of Sword !

The Fact of *Lucretia*, *Beza* thus cenſures.

Si fuit ille tibi, Lucretia, *gratus adulter,*
Immerito ex merita præmia morte petis.
Sin potius caſto vis eſt allata pudori,
Quis furor alterius crimine velle mori ?
Fruſtra igitur laudem captas, Lucretia ; *namq;*
Vel ſcelerata cadis vel furioſa ruis.

Lucretia killing her ſelf on the Rape of *Tarquin.*

If thou *Lucretia* loved'ſt th'Adulterer,
Thy Death deſerv'd, reward to claim doth err.
If rather force did thy chaſt Beauty ſtain,
How mad, for others Crimes to be ſelf ſlain ?
In vain *Lucretia*, praiſe thou ſeek'ſt for Ay,
Since Guilt or Madneſs then caſt thee away.

Condemn not yet ſo great a Lady as *Lucretia*, without hearing her Anſwer.

Pectora Tarquini, *virtuti ingrate, fuiſſent,*
Hac perfoſſa manu, Fœmina ſi potui.
Jam cruor hic noſter me non violaſſe pudorem,
Ante homines teſtis, ſpiritus ante Deos.
Stulte, meam fruſtra quid tentas rodere famam,
Orbe volat ſimul, ac æthere protegitur.

On

On *Tarquin*'s breaſt, to vertue oh ingrate!
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My blood to Men, my Soul to Gods on high,
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without number, diſpatched by their Husbands, and none think it ſtrange, nor make wonder at it, becauſe of the Cuſtom; and the Women are never the more frighted from their Adulteries, but will ſay, They can die no better death then by ſuch a Law, *Linſchot.* And may preſently marry another Wife. The Wives likewiſe frequently poiſon their Husbands, which, as ſome ſay, was the original of their cuſtom not to ſurvive their dead Husbands, but to burn them. And the cauſes of Jealouſie can by neither, be publiſhed to the Magiſtrate with ſafety or honour, either of Wife or Husband. Were it not therefore far better for the Innocent party or both by aſſent, to ſeparate themſelves privately, and marry again; then ſo live in danger of their lives one of another? and more agreeable to the Law of God and Nature, and the ends of marriage; then for them, if the Wife offends the Husband, to have power to kill her while alive, or if not offend, to kill her by burning with him after dead: or the Woman be tempted to prevent both by poiſoning her Husband: were it not better to be put away privately as *Joſeph* did his Wife, then the fault publiſh'd? and Divorces would not be ſo frequent if left free to the parties; for who would marry again a Man or Woman who had Divorced themſelves from their firſt marriage without cauſe?

Auguſtus Cæſar following the vicious policy of thoſe times, to ſtrengthen himſelf by marriage of Women, repudiates his Wife *Scribonia* the ſame day ſhe was deliver'd of *Julia*, and married *Livia*, being great with Child by *Tiberius Nero* her Husband, ſtill living, who was deliver'd of *Druſus* three Months after. *Dio. Tiberius* by aſſent of *Auguſtus*, repudiateth the Daughter of *Agrippa*, being then with Child, and marrieth *Julia* the Daughter of *Auguſtus*.

Dioclefian the Emperour married ſix Wives in a ſhort ſpace, and repudiated them all great with Child. *Oroſ.* And having aſſociated to him, becauſe of many Travels in the Empire, *Maximianus*, they both meet at *Milan* to create new *Cæſars*, to whom they may commit their Forces; where they choſe *Conſtantius Chlorus*, and make him Governour of *Britain*, and *Galerius*, whom they make Cæſar likewiſe, to defend Eaſtern *Europe*. Theſe new Cæſars they compel to repudiate their former Wives, and *Galerius* married *Valeria* Daughter to *Dioclefian*. And *Conſtantius* repudiated his Wife *Helena*, by whom he had *Coſtantine* (after call'd the Great) and married *Theodora*, Daughter-in-law to *Maximian*, by whom he had after ſix Children. *Dioclefian* aſſumeth Divine Honour, and he and *Maximian* triumph, yet they after reſign the Empire (and retire themſelves) to *Galerius* and *Conſtantius*: after *Conſtantius* createth his Son *Conſtantine* Cæſar, and dyeth. Againſt him was ſet up *Maxentius*, Son to *Maximian*, and *Maximian* giveth his Daughter *Fauſta* to *Conſtantine*. *Herod Antipas* repudiateth his Wife *Areta*, who was Daughter to the King of *Arabia*, and married *Herodias*, Wife to his Brother *Philip*, and Daugh-

ter

ter to his Brother *Ariſtobulus*. *Joſeph. Anno Chriſti* 1028. *Conſtantine* the Emperor being ſick, the States put *Romanus Argyrus* to his choice, either to repudiate his Wife and marry the Emperor's Daughter, or to loſe his Eyes; his Wife to ſave him from danger, entereth into a *Nunnery*, *Romanus Argyrus* is made Emperor, and marrieth *Zoe* the Emperor's Daughter, and baniſheth *Theodora*, her Siſter. *Zon.* *Zoe* falleth in love with *Michael* Brother to one of the chief *Eunuchs*, they ſtrangle *Romanus* in a *Bath*, he marrieth *Zoe*, and was much troubled with the Dropſie, and Falling-ſickneſs; *Michael* neglecteth the Empereſs, and refraineth her Bed, ſhaveth her, and baniſheth her: The people inforce him to recal her, and put out his Eyes. *Cedr.* *Zoe* marrieth *Conſtantius Monomachus*, who keepeth a Concubine, by her aſſent the Emperor is endeavour'd to be ſtoned by the people, in hatred of his Concubine; *Zoe* pacifieth the people. *Ib.*

Impotency and Sterility is a cauſe of Divorce.

The Law of *Solon* allowed Impotency in the Man, or Sterility in the Woman, to be a good cauſe of Divorce. *Plutarch* in *Solon. vid. Auſt. contra*, &c. becauſe then old Folks might not Marry. Such was the modeſty of ancient times in *Rome*, that from the firſt foundation of the City, for the ſpace of Five Hundred and Twenty Years, there happened no Divorce between a Husband and Wife. *Val. Max. l.* 2. *cap.* 1. And the firſt who began it was *Spurius Carbilius*, who put away his Wife for Sterility, which though it ſeem'd a tolerable cauſe, yet wanted not reprehenſion from divers, who thought the Conjugal Faith ought to overweigh the deſire of Children. *Anno* 631. *Dagobert* the great King of *France*, repudiated his firſt Wife for Barrenneſs, and Marrieth *Nantildis* a Nun: *Amandus* a Biſhop reproves him, and he baniſheth the Biſhop, afterwards having a Son, he revoketh the Biſhop to baptize him. *Calaiſ.*

Anno Chriſt. 1263. The Queen of *Bohemia* being old and Barren, the King intendeth a Divorce, ſhe layeth the fault on him, he maketh her this offer, That ſhe ſhould appoint him a Maid, and if he got her not with Child in a Year, he would be reputed faulty, the Queen accepteth it, and in Ten Months he hath a Son, and afterwards divers Daughters. She is Divorced and Marrieth *Kum* Grand Daughter to the Duke of *Muſcovia*. *Chron. Boh.*

Regner King of *Denmark*, *Anno* 820. marrieth *Langertha* a Warlike Woman of *Suevia*, and had by her *Fridlanus*, and two Daughters, *Crom.* After he Repudiateth *Landgertha* for the inequality of the Match, and Marrieth the Daughter of *Hezotus* King of *Suevia*, by whom he had many Sons. *Crom.*

Anno 1354. *Peter* King of *Spain* repudiateth *Blanch* Daughter to the Duke of *Bourbon*, and Marrieth *Jean de Caſtro*. *Hiſtor. Hiſpan. Anno* 1373. The King of *Portugal* refuſed a Match in *Caſtile*, and taketh a

Nobleman's Wife, and baniſheth him, his Subjects are diſcontented with him. *Hiſt. Hiſp.*

Anno 696. *Pepin* King of *France* repudiated his Wife, and married *Alpaida* his Concubine, by whom he had *Charles Martell*, and he kill'd *Lambert* Biſhop of *Thuring* for reproving his Marriage. *Am. Frit.* *Anno* 576. The Wife of *Chilperic* King of *France* was divorced and thruſt into a Monaſtery, for being Godmother to her own Child. *Truon.* *Charles* the Eighth of *France* was Eſpouſed to *Mary* the Daughter of *Maximilian*, *Maximilian* marrieth *Ann* the Daughter and Heir of the Duke of *Britain* by Deputy. The King of *France* repudiates the Daughter of *Maximilian*, and marries the Daughter of the Duke of *Britain*. *Luis* the Twelfth of *France* repudiates his Wife, and marries *Ann* his Predeceſſor's Widow. *Anno* 1333. The Marqueſs of *Miſnia* having married *Judeth* the Daughter of the King of *Bohemia*, the Emperor cauſeth the Marqueſs to repudiate her, and marry his Daughter. The King of *Bohemia* taketh divers places in *Miſnia*, and giveth *Judeth* to *John*, Son of the *French* King. *Dub.* The Arch-Biſhop of *Gneſna* in *Polonia*, forced Married Prieſts to be Divorced from their Wives. *Alſted.* *Anno* 1218.

Lewis the Seventh King of *France* having married *Elianor* Daughter and Heir of *William* Duke of *Guyen*, and having two Daughters by her; notwithſtanding divorced himſelf from her, on pretence they were Couzins in the fourth degree: She was after married to *Henry* the Second of *England*, (who had by her Five Sons, and Three Daughters) and was ſhe, who revenged her ſelf on *Roſamond*, though not in ſo high a degree injurious to her, as *Adela* the Daughter of the King of *France*, affianced to her Son *Richard*, who was after King, was ſuſpected to be; of whom it was commonly reported, That her Husband was ſo far inamor'd, that he having Committed *Elianor* to Priſon, reſolved to be divorced from her and marry *Adela*. *Bak. Hiſt.* 55. 59.

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England) by her divorced from her, on the opinion of ſome Divines, that it was not lawful for him to marry his Brother's Wife, and having ſucceſſively married two other Wives, after their death he married his fourth Wife, *Ann* Siſter to the Duke of *Cleave*, ſhe lived his Wife ſix Months, and then was likewiſe Divorced. Civilians, Canoniſts, Divines, Lawyers, and one Pope againſt another, and all by the Ears about Divorce, and unleſs as we ought, we wholy conſult the Moral Law of God, there is not a word of ſence in the Laws of men, but they are all for gain. Aliment of Children.

As Deſertions and Divorces of Mothers without cauſe, have been too frequent both amongſt *Gentiles*, *Jews*, and *Chriſtians*; ſo likewiſe is the Deſertion, and not giving Aliment to Children. *Ariſtotle* ſtain'd his Philoſophy with the bloody Doctrine of expoſing Infants. The *Chinoys*, who are poor, think it Charity to ſtrangle their Infants, and ſave their Aliment. Fornicators make it their cuſtom to deflour Virgins, and get them with Child, and then illegitimate and deſert both Mother and Child to ſave the charge of Aliment: And oh horrid amongſt Chriſtians! whole Pariſhes riſe with Swords and Staves againſt one poor Sucking Babe, to exterminate both it, and the Mother naked, and to be Vagabonds to beg, ſteal, or ſtarve, only to ſave ſo ſmall an Alms as Aliment to one poor Infant, not able to ſpeak or beg for it ſelf. It is related by Travellers, that ſome *Indians* uſe, when a Child is born, if it take not to ſuck the Dug of the Mother well, they carry it out of the Houſe and hang it naked on a Tree, and leave it there, returning themſelves into the Houſe: after a while they go out again, and bring in the Child and offer it the Teat; if it take it not, they carry it the ſecond time, and let it hang twice as long, and fetch and offer it the Teat again; if it take it not then, they hang it on the Tree the third time, and leave it hanging till it dies. God made man righteous and writ the Moral Law in his heart, but ſince the Devil hath ſeduced him to the Ceremonial, he is become worſe then a Beaſt.

CHAP. III.

Marriage, Filiation, and Succeſſion, not to be judged by the Law-Civil, Canon, or Feudall.

AS to the Author of the Civil Law, or rather the Emperor, in whoſe name and time the ſame was compiled, he was *Juſtinian*, whom

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whom, though his own Paraſites extoll'd for a God, and his Lawyer *Tribonian* imployed by him or his Wife *Theodora*, to do the work, claws him with a doleful Compliment, that he was in great fear leaſt he ſhould be rapt up into the Heavens, when he little thought of it for his ſingular Piety to their inſufferable loſs. Yet *Procopius* makes him a Devil, and doubts very much whether he were not a Devil incarnate more likely, when he little thought of it, to be rapt to Hell. *Bodin* indeed ſpeaks ſomething, *Fol.* 17. may clear him from being a Dæmon, for he ſaith, He was a blockiſh unlearned Prince, and out-witted by his Wife *Theodora*, when ſhe pleaſed, and cauſed by her to make Laws only for the advantage of the Women againſt the Men; and *Procopius* likewiſe commends his Juſtice, and ſaith, That he uſed when he could catch them, to take Bribes of ſides, and if any who had a Sute before him preſented him with a Bribe, he was ſure to carry his Cauſe, unleſs the other Party counterballanced him with another. As to the Collection of Laws attributed to him, it cannot be denied, but there are a multitude of excellent Laws of Nature ſcatter'd through the great Maſs of them, but in ſuch a confuſion, as is rather proper to a Chaos, then an orderly Digeſt. Then for the bulk 'tis an Hundred times bigger then neceſſary, and the Evil Laws which increaſe it to that greatneſs in number, overwhelm and in Nature deſtroy or make uſeleſs the Good. As to the Religion in them it is Popery and Superſtition. The Juſtice is Tyrannical and Arbitrary Government, the Mercy of them is Racks and all inhuman Tortures.

Civil Law. The Heads of the Civil Law prohibiting to marry, are comprehended in the Verſes following.

1. 2. 3. 4. 5.
Ætas, Conditio, Numerus, Mona, Et Ordo,
6. 7. 8. 9. 10.
Optio, Nobilitas, Sanguis, Tutela, Poteſtas,
11. 12. 13. 14.
Fons Sacer, Affinitas, Raptus, Repugnat Honeſtas,
Irrita quæ faciunt Connubia legibus, hæc ſunt.

1. The firſt cauſe making marriage void, or voidable, is Age, if the Man is under 14, or the Woman under 12.

2. Condition, If it be ſervile, they were not allowed to marry Ceremonially, but might lie with one another, and get new Slaves.

3. Number, If a Man have one Wife, he ought not to have another.

4. If either Perſon be Monaſtick, as a Monk or Nun.

5. Being

5. Being within Orders, as a Prieſt or Clerk.

6. Adoption prohibits mariage between the Adopting and Adopted.

7. Nobility heretofore prohibited marriage with a *Plebeian*, and Senators and their Children, *per Legem Papiam & Juliam*, with their freed Women, or others of ſo mean Condition. A wicked Law, and contrary to the Law of God, for they might lie with *Plebeians*, but not marry them.

8. Conſanguinity, in reſpect of which, three ſorts of Perſons are conſider'd, the Aſcendents, Deſcendents, and Collaterals.

9. A Guardian is prohibited to marry his Pupil.

10. A Preſident of a Province is prohibited to marry one ſubjected to him, by reaſon of his Juriſdiction, in which two laſt caſes the reaſon is, that marriage might be free, and not compell'd by the Awe or Power of Authority.

11. *Fons Sacer*, the Font of Baptiſm, is by the Pope made to contract a ſpiritual affinity or kindred between the God-fathers and God-mothers, and Child Baptized; for whom, or their Children to marry within the fourth degree is made without any ſence, as Inceſtuous, as if within the degrees of Carnal kindred.

12. Affinity, in which are the ſame Conſiderations of Prohibition to marry, as before in Affinity.

13. Rape; for by the Civil Law the Raviſhed was prohibited to marry the Raviſhor.

14. Such Matters as are thought againſt Honeſty, or are of ill report, according to the Manners of the People.

As to the Canon Law, *Aquinas*, *Cajetan*, and others, recite the Verſes following, which have left out ſome of theſe Matters relating to the Civil Law, and added difference in Religion and other Matters withal, to the Modern Canons, in the manner following. Canon Law.

Error, Conditio, Votum, Cognitio, Crimen,
Cultus, Diſparitas, Vis, Ordo, Ligamen, Honeſtas,
Si ſis affinis, ſi forte coire nequibis,
Hæc ſociandi vetant, Connubia facta retractant.

Which likewiſe may be eaſily underſtood by Expoſition before made of the former. But they are likewiſe many of them wicked, and contrary to the Law of God,

The Civil Law is a *Cento* of Reſcripts of Emperors, a frippery of Opinions of Doctors, Planting the Sword for the Ballance, Superſtition for Religion, Tyranny for Government, Antinomies for Laws, Torture for Judgment, Gain for Godlineſs, Iniquity for Juſtice, Confuſion for Method,

Method, Fiction for Truth, Form for Matter, Manner for Merit, Ceremony for Subſtance, a Powder of Impertinents, a Remedy worſe than the Diſeaſe, a Whirl-pool of Vertigoes, a Rock for Shipwracks, a Gulf to ſwallow Money, a Sea driven with contrary winds, a Bottomleſs Deep of Doubts, a Chaos of Controverſies, an Abyſs of Darkneſs, a Bulk broken with it's own weight. *Anno* 1520. The Pope and Papiſts Excommunicating *Luther*, he appealeth to a Council, and burneth the Canon Law, and the Popes Bull at *Wittenberg*.

Canon Law.

Calvin tit. Cynus writes of him thus, *Cynus juriſconſultus* Piſtorii *natus*, Dyni Maxellani *auditor*, Bononiæ *jus civile profeſſus eſt, libroſq; de eo non paucos ita ſcripſit, ut ſemper à Pontificiis canonibus abhorret. In interpretatione l. quoties C. de Jud. ſcribit Canonicum juriſconſultum feciſſe ſibi jura pro libitu voluntatis ſuæ, & leges civiles ſervaſſe eas ad commodum ſuum, non autem contra ſe, propter ambitum ſecularis juriſdictionis uſurpandæ, & non propter aliud.* *Cynus* a Profeſſor of the Civil Law at *Bononia*, and one wrote many Books concerning the ſame, yet did always very much abhor the Papal Canons, and writes in interpretation *l. quoties C. de Jud.* that the Canoniſts made all their Laws according to their own Arbitrary will, and obſerved the Civil Law only for their profit, and not when it made againſt them, out of Ambition to uſurp Temporal Juriſdiction to themſelves, and to no other end. The Canon Law is deſervedly likewiſe cenſured, by the Lord Biſhop of *Lincoln* in his late learned Book againſt Popery, *fol.* 35. where having recited many wicked poſitions in it, he concludes in theſe words, *Thus much* (and may be too much) *for the Canon Law, that ſink of Forgeries, Impiety, and Diſloyalty; for I ſcarce know any Book, wherein are more forged writings* (under good name ſometimes) *for bad purpoſes, and more impious Doctrines, and Poſitions own'd and authoriz'd for Law, and that by one who pretends, though without and againſt reaſon, to be* Chriſt's *Vicar, and Infallible; or any Book which hath more Seditious and Rebellious principles of Diſloyalty. This I only ſay now, but when I have what I now want, time and opportunity, I can and will* (σὺν Θεῷ) *make it good, how dangerous,* (*and when believed and practiſed*) *how pernitious to Kings and Princes, the principles of that Law are.* I hope all Biſhops will hereafter be of the ſame mind, and not own the Canon Law to be the Rule of Marriages, and Legitimations, or Succeſſions of Proteſtant Kings, and Princes, or their Subjects; or for their Pardons and Excommunications, or fit to be any longer the Eccleſiaſtical Law, for the Government in any thing of Three Proteſtant Kingdoms.

Feudal Law.

As to the Feudal Law, I ſhall defer it till I come to ſpeak of the wicked obligations of ſome Tenures, to proſtitute the Virginities of their Daughters to the Lords of the Land. It is enough for to ſhew the ſlavery of Feudal Laws, if we but remember the late Wardſhips of *Tenures*, wherein the marriages of Men and Women were bought and ſold, as if Beaſts in the

the Market, and the unjuſt Laws yet remaining in cuſtomary Eſtates, prohibiting Widows to marry; and marrying young Women to old decrepit Men, not fit for marriage, to get a Widow's Eſtate: whereby they are left expoſed to infinite Temptations. The wicked cuſtom of *Marcheta Mulieris* belongs to the Feudal Law. *Marcheta mulieris dicitur Virginalis pudicitiæ prima violatio & delibatio, quæ ab* Eveno *Rege ſibi, & capitalibus dominis fuit impie permiſſa de omnibus novis nuptis, prima nuptiarum nocte. ſed pie à* Malcolmo 3 *ſublata fuit & in capite ſequente certo vaccarum numero & quaſi pretio redimitur. Sken. Reg. Ma. lib. cap.* 31.

1. It is to wit that conform to the Law of *Scotland*, the Marchet of ane Woman noble, or Servant, or Hireling, is ane *Zoung Kow*, or three ſhillings. And the right duty to the Sergeant three pennys.

2. And ſhe be Dochter of an Frie-man, and not of the Lord of the Village, her Marchet ſhall be one *Kow*, or ſix ſhillings; and for the Sergeants duty, ſax pennys.

3. *Item*, The Marchet of ane *Thane* or *Ochiern* twa Rye, or Twelve ſhillings, and the duty to the Sergeant Twelve pennys.

4. *Item*, The Marchet of the Daughter of an Earl pertains to the Queen, and is twelve Rye.

The *Spaniards* in the *Weſt Indies* ſetting a Tribute to the King, and the inferior Lords, to be paid yearly by every married perſon. To encreaſe theſe yearly Tributes from married perſons, they every year ſurvey by Liſt, the married perſons of every Town: and cauſe their Children, Sons and Daughters to be brought before them, to ſee if they be fit to be married; and if of growth fit, they threaten the Parents for not marrying them, and raiſe his Tribute by way of Fine, till he marry them. And the ſet time they appoint for marriage to the *Indians*, is 14 to the Man, and 13 to the Woman; yea, ſome they compel to marry ſcarce 12 or 13 years of Age, if they appear of more forward ſtrength; yea it is a ſhame to ſee how young they are inforced to it, *pag.* 155. So between the King of *Spain* and the Pope, the poor *Indians* pay dear for marriage, which God left free.

The Civil Law is ſaid to be *Jus Leoninum*, The Canon Law *Jus Vulpinum*, The Feudal Law *Jus Aſinarium*, in regard of the intollerable oppreſſion and ſervitude in it: I conclude therefore Marriage, Filiation, and Succeſſion, not fit to be judged by any of theſe three Laws.

CHAP. IV.

Marriage, Matrimony, Legitimtaion, or Succeſſion, not to be judged by the Law of Mahomet.

YOU will not offend God in ſpeaking a word in ſecret to Women, that you reſearch in marriage, although you conceal in your minds your deſign to eſpouſe them, he underſtandeth whatever you think of them. *Alch. cap.* 2. *pag.* 23.

Of Perſons with whom Marriage is forbidden.

Marry not the Wives of your Fathers, what is paſt was Inceſt, abomination, and a wicked way; your Mothers are forbidden you, your Daughters, Aunts, Nieces, Nurſes, and your foſter Siſters: The Mothers of your Wives, the Daughters that your Wives have had by other Husbands. The Daughters of Women that you ſhall have known are alſo forbidden you; if you have not known them, it will be no ſin. The Wives of your Sons are likewiſe prohibited, and two Siſters; for what is paſt, God is Gracious and Merciful. Married Wives are likewiſe forbidden, except the Women-ſlaves that you ſhall have acquired: God hath ſo commanded you. Except what is above forbidden, it is lawful for you to marry at your pleaſure.

Of the Time of approaching Wives.

When your Wives ſhall be clean, approach them, according to what God hath commanded. He loveth them that repent of their Error, and are clean and purified. Your Wives are your Tillage, go to your Tillage at your pleaſure; And do good to your Souls, you ſhall one day find it: fear God and preach his Commandments to true Believers. *Alcbor. cap.* 2. *pag.* 21.

Of forbearing to touch Wives.

God will be Gracious and Merciful to ſuch as ſhall ſwear, not to touch their Wives the ſpace of four Months, if he return to them he is Gracious and Merciful; but if they deſire to repudiate them, he underſtandeth

and

and knoweth all things. Women Divorced ſhall tarry until their Terms be paſt four times, it is not permitted them to conceal what God hath created in their Wombs, if they believe in his Divine Majeſty, and the day of Judgment. *Alchor. cap.* 2. *p.* 22.

Of the propriety of the Wife in her Goods, diſtinct from the Husband.

Oh ye that believe in God, it is not lawful for you to inherit what is your Wives by force. Take not violently away from them what you have given them, unleſs they be ſurprized in manifeſt Adultery, ſee them with civility; if you have an averſion from them, it may chance that you have a thing wherein God hath placed much Good: But if you deſire to repudiate your Wives to take others, and that you have given them any thing, take not any thing that appertaineth to them. Will you take their wealth with a lye, and a manifeſt ſin, how ſhall you take it ſince you have approached each other with a promiſe, to uſe each other civilly? *Alchor. cap.* 4. *pag.* 49.

Of giving Suck by the Mother, and Aliment to her, and her Child, and Aliment by the Heir to his Parents.

The Women ſhall give Suck to their Children two years intire; if they deſire to accompliſh the time appointed to ſuckle them, the Father ſhall nouriſh and cloth the Wife and his Children, according to his faculties. Expend not but according to the meaſure of your Goods, the Father and Mother ſhall not neceſſitate themſelves for their Children. The Heir ſhall perform what is above ordained, he ſhall entertain his Father and Mother according to his abilities. If the Parents would wean their Children before two years be expired, they may do it without offending God, if they both agree to it. If you cauſe your Children to be Nurſed by other Women than your own Wives; God will not be offended in giving them their Sallary according to reaſon and honeſty. Fear God and know that he ſeeth whatever you do. *Alchor. c.* 2. *p.* 23.

Of Legitimation and Succeſſion of Children.

All the Children the *Mahometans* have by their Wives or Slaves, are alike Legitimate, and ſucceed to the Father's Goods in ſuch manner, as did the Twelve Sons of *Jacob*. And the *Grand Seignior* of the *Turks* himſelf eſteemeth her, though ſhe be a Bond-woman, his *Sultana* or Empreſs,

who bringeth him the firſt Son, who is likewiſe Heir to the Empire, though never any Ceremonies of marriage by a Prieſt, or in a Temple were uſed.

Of Succeſſion of Children to the Goods of Parents, and of Parents to theirs, and of Collateral Heirs.

God recommendeth to you your Children. The Son ſhall have as much as two Daughters: if there be more then two Daughters, they ſhall have two thirds of the Succeſſion of the Dead; if there be but one, ſhe ſhall have the moyity, and her kindred a ſixth part of what ſhall be left by the Dead. If there be no Children, and the kindred be Heirs, the Mother of the dead ſhall have a third; if there be Brethren, the Mother ſhall have a ſixth after ſatisfaction of Legacies contained in the Teſtament, and of debts. You underſtand to whom it is moſt requiſite to do good, to your Children, or to your Father and Mother. give them the Portion ordained of God; the moyity of what their Wives ſhall leave belongeth to you, if they have no Children. If they have, you ſhall give the fourth part of what they ſhall leave; after payment of the Legacies and Debts, they ſhall have the fourth of your Succeſſion, if you have no Children; if you have, they ſhall have the Eighth Portion. If a Man and a Woman be Heirs of each other, and have neither Father nor Mother, nor Children, and have a Brother or Siſter, each of them ſhall have a ſixth part of the Succeſſion; if they be more, they ſhall ſhare the Third after payment of Legacies and Debts without fraud, following what God hath ordained. He knoweth all your actions, and is prudent in what he ordaineth, it is God ordained by his Divine Majeſty, he that ſhall obey him and his Prophet ſhall enter into Paradiſe, where many Rivers flow, and ſhall dwell in Eternal felicity. He that ſhall diſobey God and his Prophet, ſhall be caſt Head-long into the fire of Hell, where he ſhall ſuffer ignominious Torments. *Alchor. cap.* 4. *pag.* 48, 49.

Of Succeſſion of Brothers and Siſters.

If a Man deceaſe without Iſſue, and hath a Siſter, ſhe ſhall have a moyity of what he ſhall leave, and ſhall Inherit it, if he hath no Children. If they be two Siſters, they ſhall have two Thirds of what the deceaſed left. If they be many Brothers and many Siſters, the Son ſhall have as much as Two Daughters; God teacheth you his Commandments, depart not from the right way, he is Omniſcient. *Alchor. cap.* 4. *p.* 64.

Of

Of Fornication.

Thoſe that know no other Women but their own, and their ſlaves; Theſe *Mahomet* numbers amongſt the Righteous. *Alchor. cap.* 70. *p.* 362. If you deſire Women for Money, and neither commit Concubinage nor Adultery, give them Salary, for which you ſhall agree, ſo you ſhall not offend God. He that ſhall not be able to eſpouſe Women of a free condition, ſhall marry ſuch Women and Maids as are ſlaves. The marriage of ſlaves is for them that fear Whoredom. *Alchor. cap.* 4.

Of Deſertion by Wives of their Husbands.

If Women fly from their Husbands, they ſhall be brought again to them, which is a thing reaſonable, they ought to honour them, and their Husbands likewiſe ought to honour them; but the Husbands have a degree of advantage above them. God is Omnipotent and moſt Wiſe in what he ordaineth. *Alchor. cap.* 2. *pag.* 22.

Of Adultery by Wives.

If your Wives commit Adultery, take four Witneſſes of their fault, that be of your Religion; if they bear witneſs, keep them Priſoners in your Houſes until death or until God ſhall otherwiſe ordain. If they Repent of their fault do them no harm, God is Gracious and Merciful to them that Repent. *Alchor. cap.* 1. *p.* 49.

Of Divorce.

When you ſhall repudiate your Wives, appoint them the time they muſt tarry before they again marry, take them with civility and modeſty, and in like manner diſmiſs them; give them preſents according to your ability, and take them not to abuſe or torment them. They that do thus offend their own Souls. *Alchor. cap.* 2. *pag.* 22. He that hath repudiated his Wife thrice, ſhall not reſume her until ſhe hath been married to another who hath Divorced her, *Alchor. c* 2. *p.* 22. Then they may return to each other again, and marry without ſin. *ibid.* If the Women Divorced be with Child, allow them what is neceſſary for them till they be delivered, if they deſire to Nurſe their Children, you ſhall give them an honeſt Salary; if ye like not this, ye ſhall cauſe them to be Nurſed by another, whoſe pains ye ſhall reward: if ye be not wealthy ye ſhall allow according to your power. *Alchor. cap.* 66.

Of

Of the time Women are to tarry before a ſecond Marriage.

Widows ſhall tarry four Months and ten Nights after the death of their Husbands, before they marry again. *Alchor. cap.* 2. *pag.* 23. The like time required after Divorce.

The word *Alchoran* ſignifies a Collection of theſe Laws of *Mahomet* concerning Marriage and Succeſſion; which ſeem to be no other but a Collection of ſome old *Arabic* cuſtoms, which he as well as the Pope, and many other Legiſlators (to inſnare the conſciences of the Ignorant & Superſtitious) counterfeited to come from God: in which, though each of the Perſons are equally guilty of Blaſphemy, yet as to the Laws, the *Mahometan* far excel the Pontifical. And pardon me if I think our own Municipal Laws derived from ſo impure a Legiſlator as *Rome*. For firſt here is in theſe *Arabic* cuſtoms, no Diſpenſation of what is truly Inceſt by the Law of Nature, nor any prohibition of any within the fourth degree, not prohibited by the Law of God or Nature. 2. Here is no prohibition of *Septuageſima*, *Advent*, or *Rogation* times, to get money for Licenſes to marry. 3. Here is no Banes, carrying of Women to Temples, buying of the Prieſts Benedictions, nor money given for Licenſes to marry without them. 4. Here is no inſlaving Women by marriage, unleſs ſlaves whom they buy in the Market for money, or take Captive in Wars, by Robbing them of the propriety of their Goods; nor any ridiculous and unjuſt puniſhment of the Man for the Woman, or the Woman for the Man's offences. 5. Here is no letting Stews, or Fornication to Rent. 6. Here the Father hath liberty to acknowledge his own Children, and the Children their Father; and no Certificate of Biſhops hath power to take that right from them. 7. Here the wantonneſs of Widows is forbidden, who are for new Husbands as ſoon as the old is put in his Grave, whereby who are Fathers of their Children is made uncertain. 8. Here is no falſe Fathering of Children on thoſe who are within four Seas. 9. Here is no puniſhing Men twice for one offence; once by the Temporal Court, and then by the Spiritual Court: or contrary puniſhments by contrary Courts; one by the Contentious Court, and another by the Penitential Court. 10. Here is no Auricular Confeſſion of their Wives or Daughters by Prieſts in Temples or Chambers, and defiling thereby of their Families. 11. Here is no puniſhing of Women for bringing forth Children, nor the Murders of ſo many Infants cauſed thereby, as by the Papiſt Laws is continually done. Yet I conclude, though the Law of the *Turk* is far better than that of the Pope, and ſhall riſe in Judgment againſt ſuch as plant his Canons in their Courts, in defiance of the Law of God and Nature; I think neither a fit Rule to judge Marriage, Legitimation, or Succeſſion by.

CHAP.

CHAP. V.

Marriage, Filiation, Aliment and Succeſſion, not to be judged by Eccleſiaſtical Laws.

THE Queſtion is, *Whether Marriage, Legitimation and Succeſſion ought to be judged by Eccleſiaſtical Laws?*

No *Engliſh* Lawyer can mention my Lord *Coke* without great honour, but how he came ſo biaſs'd as to endeavour to ſet up Papal and Epiſcopal Laws under the name of Regal, appears not.

It is objected by *Coke*, *lib.* 5. 1. *part* 40. in *Cawdryes* Caſe, That the Kingdom of *England* is an abſolute Monarchy, and if the King cannot Authorize by his Commiſſion or Writ Eccleſiaſtical, Judges to determin and judg thoſe great and important Cauſes of Matrimony, Divorce, and general Baſtardy, by Certificate of the Biſhop, who is the Eccleſiaſtical Witneſs, and Judg both of Fact and Law, and by the Canon Laws, which by uſe and cuſtom are now our Eccleſiaſtical Laws: Then he is diſabled to be ſupreme Governour of this Realm in all Spiritual things, or Cauſes as well as Temporal, according to the Oath of Supremacy due to him: And that he could not then cauſe Juſtice to be adminiſtred to his Subjects in theſe ſo great and important cauſes of Matrimony, Divorce, and general Baſtardy, on which depends the ſtrength of mens Deſcents, and Inheritances. This I conceive, though not in the ſame words, yet in ſence and ſubſtance, to be the weight of my Lord *Coke's* Argument, whereby he would make uſe of Marriage, as one means amongſt his many other, to ſet up an Eccleſiaſtical Law, and Judg over the Temporal Freeholds and Inheritances, and other Birth-rights, of the Subjects. To which is anſwer'd, Firſt, As to the words Abſolute and Supream, I ſuppoſe he intended no ſuch abſolute Monarchy or Supremacy, as is not under the Law of God, though it be not ſo expreſs'd in the form of the *Oath* of *Supremacy*: For though, *Regum timendorum in proprios greges, Reges in ipſos imperium eſt Jovis*; then I think he doth not intend it to be above the Law of the Land, ſeeing the King himſelf by his Oath, is pleaſed to oblige himſelf to his People to govern according to that Law, where it is not contrary to the Law of God. Then as to the pretended want of Power of doing Juſtice, concerning cauſes of *Free-hold* and *Inheritance* depending on marriage, except by Eccleſiaſtical Laws and Judges, that is very ſtrange; for how was Juſtice done in the times of Primitive

Object. 1.

Eccleſiaſtical Laws not needful to the King's Supremacy, but hurtful.

mitive Chriſtianity for many Hundred Years after Chriſt, when neither Biſhops or any other Eccleſiaſtical Judges, ever pretended Juriſdiction todetermin Temporal Right or Propriety, but left the ſame to be judged by the Imperial Laws. How was Juſtice done in the time of *Henry* the *Second*, when the Juriſdiction of all Matrimonial cauſes remained in the Temporal Courts? *Richard* the *Firſt*, his Son, being the firſt, as *Matthew Paris* writes, whom the Clergy got by his publick Edict to give the Juriſdiction of Power and Gifts, by reaſon of Marriage, and of all Matrimonial cauſes to the Biſhops Courts; and the ſame *Richard* likewiſe gave them Juriſdiction of all breach of Faith, Promiſes and Oaths, whereby if much of the Power ſo raſhly granted, had not been by him ſo ſpeedily reſumed, they had hookt to themſelves the whole Juriſdiction from the King's Courts, of all Contracts and Conveyances, Bonds and Obligations, as well as Marriages, concerning Temporal Goods and Inheritances. And why cannot general as well as ſpecial Baſtardy be tryed at Common Law? And how likewiſe are all Rights depending on all Marriages made during the late Civil Wars by pretence of any Ordinance of Parliament made by 12. *Car.* 2. *cap.* 33. to be tryed by a Jury and the Common Law, and not by Certificate of the Biſhop, or any Eccleſiaſtical Judg, to the advancement, and not prejudice of Juſtice; and a far greater expedition and advantage to the ſame would it be, if by the like Act the Juriſdiction of all Marriages and Legitimations, as it was in the time of *Henry* the *Second*, were again reſtored to the Common-Law-Courts. So likewiſe anciently Baſtardy alledged in an Action of Treſpaſs was triable by Jury, but now uſurped by Biſhops as well in perſonal as real Actions. 4. *Edw.* 4. 35.

Object. 2. *Circumſpectè agatis* gives no Juriſdiction of Marriage to Biſhops.

Coke lib. 5. 1. *part.* in the ſame caſe of *Cawdry* it is further alledged, That the Statutes of *Circumſpectè agatis* made 13. *Eliz.* 1. of *Articuli Cleri* made 9. E. 2. *Anno Domini* 1315. of 15. E. 3. *Cap.* 6. of 31. E. 3. *Cap.* 11. give Juriſdiction of marriage to Biſhops.

To which is anſwer'd, That in the Statute of *Circumſpectè agatis*, there is not a word mention'd of marriage, but only by it, Juriſdiction is given to the Biſhops of Fornication and Adultery, which is not Marriage, but rather Anti-marriage; for Marriage is an Ordinance of God, Fornication and Adultery are Ordinances of the Devil; and whereas before, the Juriſdiction of Fornication and Adultery, as acknowledged by *Coke*, *lib.* 5. 1 *part.* 488. was in *Leets* under the name of *Letherwit*, or more properly *Leecherwit*, yet had *Leets* never Juriſdiction of Marriage or Divorce, neither conſequently could Biſhops have it from them. As for *Articuli Cleri*, and the other Statutes, there is not a word in them concerning Marriage, nor ſo much as of Fornication and Adultery; the Juriſdiction therefore pretended, was never given by any Statute.

Linwood likewiſe expounds the words of the Statute of *Circumſpectè agatis*, which gives Biſhops Juriſdiction of all deadly Sins, as Fornication and Adultery, and the like; *Non intelligas de omni peccato mortali, ſed de tali, cujus punitio ſpectat merè ad forum Eccleſiaſticum; nam ſi de ratione cujuslibet peccati mortalis cognoſceret Eccleſia, ſic periret temporalis gladii Juriſdictio, cùm vix eſſet dare cauſam quin ratione peccati poſſit deferri ad Eccleſiam.*

It's alledged, That it appears by the Statute of *Merton*, that *Henry* the *Third* writ in his time to the Biſhop to certifie Marriage and Baſtardy. Object. 3. Stat. *Merton* gives them no Juriſdiction.

Firſt, It is to be underſtood therefore, that in the time of Pope *Alexander* the *Third*, *Anno Dom.* 1160. which was *Anno* 6. *H.* 2. (in whoſe time all Matrimonial Cauſes beonged to the King's Courts.) This Conſtitution was made, That Children born before Solemnization of Matrimony, where Matrimony followed, ſhould be as Legitimate to inherit to their Anceſtors, as thoſe that were born after Matrimony.

It is likewiſe further to be known, that King *John* the Father of *Henry* the *Third*, who made this Statute of *Merton* following, was by the then Pope *Innocent* Excommunicated, as likewiſe at the ſame time was the Emperor *Otho* and the whole Kingdom of *England* Interdicted, and ſo remained for the ſpace of Six Years, Three Months, and Fourteen Days, during all which time there was no Church open for Marriages or Burials, but the poorer People were buried like Dogs in Ditches, and where they married God knows. Through which, King *John* was driven to ſuch diſtreſs by his own Biſhops and Barons, and the *French* aſſiſting the Pope againſt him, that he was forced, before he could get to be releaſed of this Excommunication, to pay the Pope vaſt Sums of Money, and to lay down his Crown, and Scepter, Mantle, Sword and Ring, the Enſigns of his Royalty, at the feet of *Pandolphus* the Pope's Legat, and ſubmit himſelf to the Mercy and Judgment of the Church Two Days, ſome write Six, it was before the Legat reſtored him to his Crown, which he likewiſe received again on no better Terms then to hold the Kingdom of *England*, and Lordſhip of *Ireland*, from the See of *Rome*, at the Annual Tribute of a Thouſand Marks Silver, and the Excommunication was not to be taken off, but deferred till further and full ſatisfaction was made to the Clergy, which was not done till Two Years after. King *John* Excommunicated. The Biſhops being hereby arrived at ſo great an height of their Tyrannical Power over this King: As that when the King having obtained abſolution, had gather'd a great Army to have been revenged on the *French* King, the Arch-Biſhop of *Canterbury* told him 'twas againſt his Oath at his Abſolution, and the King in a great paſſion reply'd, He would not defer the Buſineſs for his pleaſure, ſeeing Lay-judgment appertained not to him; the Arch-Biſhop preſumed to threaten his native The Biſhops uſurped the exerciſe of Eccleſiaſtical Laws by force over their Kings.

Soveraign, that unleſs he deſiſted, he would Excommunicate him. *Note* therefore, That in the time of *H.* 3. who was the Eldeſt Son of King *John*, the Biſhops continued to aſſume the Power of Lay-judments, as well in Marriages, as they did of ſhutting up of Churches, in which they were made from the Pope, to whom they had inforced King *John* to ſurrender his Crown, and not from the King's Writ as that Statute of *Merton* ſhews, rather a proud Renunciation, and ſcorn to anſwer the King's Writ concerning Marriage, then any uſe permitted by them to the King of the ſame, unleſs he would as his Father had done, lay down again his Crown to them, and have Marriage judg'd according to the Law of the Pope: for otherwiſe they tell him plainly, They neither will nor can anſwer his Writ, as appears by the Statute it ſelf, the words whereof follow. 20 *H.* 3. *Cap.* 9. To the King's Writ of Baſtardy, Whether one being born before Matrimony may Inherit in like manner, as he that is born after Matrimony? All the Biſhops anſwer'd, That they would not nor could not anſwer to it, becauſe it was directly againſt the common Order of the Church, (that is meant the *Romiſh* Church.) And all the Biſhops inſtanted the Lords, that they would conſent, that all ſuch as were born afore Matrimony ſhould be Legitimated, as well as they who were born within Matrimony, as to the ſucceſſion of Inheritance, for ſo much as the Church accepteth ſuch for Legitimate. And all the Earls and Barons anſwer'd with one voice, That they would not change the Laws of the Realm, which hitherto have been uſed and approved. *Coke* 2 *part. Inſt.* 97. It is ſaid, Though the Biſhops are Spiritual Perſons, yet in caſe of general Baſtardy, when the King writes to them to certifie who is lawful Heir to any Lands or other Inheritances, they ought to certifie according to the Law and Cuſtom of *England*, and not according to the *Roman* Canons and Conſtitutions; yet if they do make their Certificate according to the Canon Law, and not the Law of the Land, there appears no Remedy unleſs ſuch a one as is worſe then the Diſeaſe. Sir *Galfred le Scrope* Cheif Juſtice, ſaith, Before this Statute of *Merton* the Party pleaded not general Baſtardy, but that he was born out of Eſpouſals, and the Biſhop ought to certifie whether he were born before Eſpouſals or not, and according to that Certificate to proceed to Judgment according to the Law of the Land. And the Prelates anſwered, That they could not nor would not to this Writ anſwer, and therefore ever ſinee ſpecial Baſtardy, *viz.* that the Defendant, *&c.* was born before Eſpouſals, hath been Try'd in the King's Courts, and general Baſtardy in the Biſhops Court: and herewith agree our old Books, and the conſtant Opinion of the Judges ever ſince. *Coke* 2 *part Inſt.* 99.

No remedy againſt Biſhops making Certificates contrary to the King's Laws.

General Baſtardy uſurped by Biſhops & not given them by Law.

It being before granted, That the Law of *England* cannot be changed but by an Act of Parliament, and *Magna Charta* being before made, and

and being a Declaration of the ancient Common Law,

Firſt, That no Freeman was to be put out of his Free-hold or Inheritance, but *per legale Judicium parium*, and there being no cauſe of its own Nature more Temporal, or more concerning Succeſſion to Temporal Inheritance then Marriage, It was contrary to *Magna Charta* and the Common Law, to judg the Fact of it by any other Judges then Juries, and the Law of it by any other Judges then thoſe of Temporal Courts; and though the Pope and Biſhops in thoſe Superſtitious times forced the Kings many times, as they did King *John*, to yeild his Crown, and the Subjects to yeild their Marriages and other Temporal Rights to their Arbitrary and Saleable Sentence, for fear of Excommunication; yet doth not this any way prove that the Juriſdiction of Marriage was ever granted them by any Law or Act of Parliament, or could be, without it were contrary to a known Common Law and Act of Parliament, which expreſsly gave the trial of Temporal Rights and Inheritances to a *Legale Judicium parium*, and not to any Eccleſiaſtical Judges or Laws. Now therefore it being clear they had no Juriſdiction but by Uſurpation of ſo Temporal a Right as Marriage before this Statute, let any who thinks he can ſee Nine Miles into a Millſtone, once more look into the Statute of *Merton* before recited, and try whether he can ſcrew out of it any word giving the Biſhops either a Juriſdiction of Marriage, or general Baſtardy, or that this Statute ever forged ſo rude a *Romiſh* Tool as the two edged Sword of general and ſpecial Baſtardy, to divide the living Child, or tear it in peices between the Biſhop and the Temporal Judg; or how it was then conſiſtent with a *Legale Judicium parium*, to expoſe a Child, no Alien, but the King's Native Subject, to be tried for all he had, by a then Foraign Eccleſiaſtical Law, and a Judg a ſworn Canonical Subject to a Foraign Pope; or that the wiſdom of that Parliament intended to coin a *Chimera* of a Diſtinction, without a difference of general and ſpecial Baſtardy, which neither they themſelves underſtood, nor any Lawyers which write to this day, give any ſenſibly Interpretation, or agree amongſt themſelves concerning it; or that they who made the Statute to oppoſe the Biſhops Juriſdiction of Marriage ſhould create a Notion of general Baſtardy, which *le Scrope* ſays, was not in *Eſſe* before to give them a new Juriſdiction; which was to change the Laws of *England*, which they poſitively refuſe in the Statute it ſelf to change.

It is further alledged by *Coke lib.* 5. 1 *part* 9. That as the *Romans* fetching divers Laws from *Athens*, yet being approved and allowed by the State there, they were called *Jus Civile Romanorum*: And as the *Normans* borrowing all or moſt of their Laws from *England*, yet baptized them by the name of the Laws and Cuſtoms of *Normandy*. So albeit the Kings of *England* derived their Eccleſiaſtical Laws from others, yet ſo many as were approved and allowed hereby and with general

Object. 4. No Similitude of fetching the Laws of *Athens* to *Rome*, and bringing the *Romiſh* Laws to *England*.

 conſent

conſent, are aptly and rightly called the King's Eccleſiaſtical Laws of *England*.

To which is anſwer'd, That there is no ſimilitude between making or changing the Laws of the *Athenians*, which were Foraign Laws, to become the Laws of the *Romans*, and the making or changing either the Foraign, Papal, or native Provincial Canons, or Eccleſiaſtical Laws, into the King's Eccleſiaſtical Laws of *England*.

For Firſt, The *Athenian* Laws before they were made *Denizons* of *Rome*, were not admitted *in cumulo*, but Articulated, and every Article examined one by one, by the *Decem viri*, or Ten Men (as our uſurped Eccleſiaſtical Laws were appointed to have been done by the Statute of 25 *Hen.* 8. 19. by the Two and Thirty Men; and likewiſe in time of *Edward* the *Sixth* by others, but neither ſucceeded) before the ſame was received for a *Roman* Law.

Secondly, Such *Athenian* Laws as were pickt or garbled from the reſt, were by the Authority of the Legiſlative Power of *Rome*, both Senate and People, cauſed to be writ in Twelve Tables, and inacted to be the Laws of *Rome*; but in *England* there was never by Authority any Articulation, ſelecting or garbling of Canon Laws effected, nor the ſame reduced into Tables Written, or Printed by any Act of Parliament.

Eccleſiaſtical Laws in an unknown Language.

Thirdly, The ſelected *Athenian* Laws were written in the *Roman* Language, to be underſtood by the People before they would be received as *Roman* Laws; but there is no ſuch thing in the Eccleſiaſtical Laws of the Holy-Church concerning Marriage, or any thing elſe, but they all ſtill remain in the Language of the Beaſt, and can be neither call'd the Laws of the Church, which by the Scripture are forbidden to be ſpoke in an unknown tongue, as appears 1 *Cor.* 14. 19. It is ſaid, *In the Church I had rather ſpeak five words with my underſtanding, that by my voice I might teach others alſo, then ten thouſand words in an unknown tongue.* It is as utterly unlawful therefore to make that a Law of the Church, or an Eccleſiaſtical Law of Marriage, which is in the unknown Language of *Latin*, as it had been to have made any form of Prayer taken from the *Romiſh* Church, though the *Pater Noſter* it ſelf, the form of Prayer of the Church of *England*, while it was in *Latin*; for the Miniſter would then have been a *Barbarian* to the *Engliſh*-man, and the *Engliſh*-man a *Barbarian* to him; and it is as bad for the poor *Engliſh*-man for his Law-ſutes in *Latin* for a Wife in the Court of *Arches* and other Eccleſiaſtical Courts, as it would be, if his Prayers were again in *Latin* in the Church. For though he pay his Lawyers dear to plead his Cauſe, there he cannot underſtand for his Money, whether they call him and his Wife Rogue and Whore, or honeſt People; or whether the Judg by his Sentence will give him his Wife, or take her from him, but by the implicit Faith of an Interpreter, as let any one look on the Sentence

tence of Divorce in *Kennes* Caſe, *Coke lib.* 7. 42. *E.* he may underſtand or not underſtand the ſame.

Fourthly, The *Athenian* Laws were not obtruded on the *Romans* by Conqueſt of their Bodies by the Temporal Sword, or their Souls by the Spiritual Sword of Excommunication; but the Eccleſiaſtical Laws of Marriage have been obtruded on *England*, ever ſince the Conqueſt by the ſuperſtitious Terrors, or actual force of Excommunication, either Papal or Epiſcopal, and never by conſent in Parliament. The ſuffering of an oppreſſion therefore, is no conſent, nor an abuſe againſt Law, an uſe, Cuſtom, or Law; neither can a wicked Oppreſſion, uſe, Cuſtom, or Law, in name only, be turned into a Law of *England*; except by conſent in Parliament, or other humane Power: beſides, it is by the very before recited Statute of *Merton* declared, That the Laws of the Church are not the Laws of *England*; for when the Biſhops quarrel'd, that the Law of *England*, as to Marriage, was not according to the Law of the Church, and would have had them changed into the Law of the Church; the Earls and Barons with one voice anſwer'd, We will not change the Laws of *England*. Whereby it's plain the Laws of *England* and Laws of the Church are oppoſite Laws, and not the ſame, and this is confeſſed by *Coke* himſelf in the expoſition of his Statute of *Merton*, 2 *part Inſt. fol.* 98. where he ſaith, Here our Common Laws are aptly and properly called the Laws of *England*; becauſe they are appropriated to this Kingdom of *England*, as moſt apt and fit for the Government thereof, and have no dependence upon any Foraign Law whatſoever; no not on the Civil or Canon Law, other then in Caſes allowed by the Laws of *England*; and therefore he ſaith, the Poet ſpake truly hereof, *Et penitus toto diviſos orbe* Britannos: So as the Law of *England* is *proprium quarto modo* to the Kingdom of *England*, therefore Foraign Precedents are not to be objected againſt us; becauſe we are not ſubject to Foraign Laws. Again, that cuſtom or uſe of Civil or Canon-Laws or Precedents, doth not make Civil or Canon-Law the Law of *England*, appears by the uſe of Sentences of Philoſophers, and Poets, and Precedents of Hiſtorians, all as much uſed in Courts of Records, of Courts of Judicature, as the Civil or Canon-Law, yet doth not this uſe or cuſtom make theſe Sentences of Philoſophy and Poets, and the like, to be the Law of *England*, or obligatory to the People of *England*, unleſs ſuch Sentences of Philoſophers and Poets are ſelected from the reſt, and inacted, or confirmed by Act of Parliament to be hereafter the Laws of *England*. And they are ſo far otherwiſe from being Laws of *England*, that Cardinal *Woolſey Mich.* 21. *H.* 8. *Coram Rege* was Indicted, That he intended *Antiquiſſimas Angliæ Leges penitus ſubvertere, & enervare, univerſumq; hoc Regnum* Angliæ *& ejuſdem Regni populum, Legibus imperialibus, vulgo dictis Legibus Civilibus, & earundem Legum Canonibus,*

Eccleſiaſtical Laws are not the Laws of the Land.

in

in perpetuum ſubjugare, & ſubducere &c Let any ſhew a ſenſible reaſon, why the Biſhops and Eccleſiaſtical Judges, who actually bring in the whole heap of Civil and Canon Laws to judge of the Marriages, Filiation and Succeſſion of the Subjects, and amongſt them the new coin'd Law at the Council of *Trent*, made when Forein Juriſdiction was aboliſh'd; and thereby actually deprive him of that invaluable liberty, to which every Native Subject is born, and is confirmed to him by ſo many Acts of Parliament. And thoſe great Fundamental Acts, *Magna Charta*, and the *Petition* of *Right*, to have his Birth-right tried *per legale judicium parium*, deſerve not as high a cenſure by Parliament, as Cardinal *Woolſey* had, who only intended to do the ſame: And if any hath any mind to conſult (beſides the Laws and Precedents againſt Forein Laws and Precedents.) *Bod. lib.* 1. of a Common-wealth *fo.*107,108. will give him ſome ſatisfaction; where he ſaith, *It was in moſt ſtrong Terms judged by a Decree in the Court of* Paris *in the Caſe of* Philip *the Second the* French *King, That he was not bound unto the cuſtoms of the Civil Law at ſuch time, as they who were next kindred would have redeemed of him the Countrey of* Guyens; howbeit that many both think, and write, the Prince to be bound to that Law; for that they think that Law to be Common to all Nations, and not Common to any City. And yet than the which Law, the *Romans* themſelves in ſome Caſes thought nothing more unreaſonable. But our Anceſtors would not have, even our Subjects bound to the *Roman* Laws; as we ſee in the Ancient Records, that *Philip* the *Fair* erecting the Parliament of *Paris*, and *Mompelier*, declared, That they ſhould not be bound unto the *Roman* Laws. And in the erection of Univerſities, the Kings have always declared, That their purpoſe was to have the Civil and Canon Laws in them publickly profeſſed, and taught to make uſe thereof at their diſcretion; but not that the Subjects ſhould be any way bound thereto, leſt they ſhould ſeem to derogate from the Laws of their own Countrey, by advancing the Laws of ſtrangers. And for the ſame cauſe *Alaricus* King of the *Goths* forbad, upon pain of death, any Man to alledge the *Roman* Laws, contrary to his Decrees and Ordinances, which M. *Charles du Moulin* (my Companion, and Ornament of all Lawyers) miſtaking, is therefore with him very angry, and in reproach calleth him therefore *barbarous*: howbeit that nothing was therein by *Alaricus* decreed or done, but that which every wiſe Prince would of good right have decreed and done: For Subjects will ſo long both remember, and hope for the Government of Strangers, as they are Govern'd by their Laws. The like Edict there is of King *Charles* the *Fair*, and an old Decree of the Court of *Paris*, whereby we are expreſly forbidden to alledge the Laws of the *Romans*, againſt the Laws and Cuſtoms of our Anceſtors. Yea the King of *Spain* alſo hath, upon Capital pain, forbidden any Man to alledge the *Roman* Laws in confirmation of their own Laws, (as *Oldrad* writeth.)

Forein Laws become not the Laws of this Land by being uſed by Lawyers.

And

And albeit there was nothing in the Laws and Cuſtoms of their Country, which differ'd from the *Roman* Laws; yet ſuch is the force of that Edict, that all men may underſtand, that the Judges in deciding of the Subjects Cauſes, were not bound unto the *Roman* Laws: And therefore much leſs the Prince himſelf, who thought it a thing dangerous, to have his Subjects bound unto ſtrange Laws. And worthy he is to be accounted a Traitor, that dares to oppoſe ſtrange Laws, and ſtrange Decrees againſt the Laws of his own Prince. In which doings, when the *Spaniards* did too much offend, *Stephen* King of *Spain* forbad the *Roman* Laws to be at all taught in *Spain*, as *Polycrates* writeth: Which was more ſtraightly provided for by King *Alphonſus* the *Tenth*, who commanded the Magiſtrates and Judges to come unto the Prince himſelf, and as often as there was nothing written in the Laws of their Country concerning the matter in Queſtion. Wherein *Baldus* is miſtaken, when he writeth the *Italians* to be bound to the *Roman* Laws; but the *French* no otherwiſe than ſo far, as they ſhould ſeem unto them to agree with Equity and Reaſon. For the one is as little bound as the other; howbeit that *Italy*, *Spain*, the Countries of *Province*, *Savoy*, *Languedoc*, and *Lyonnois*, uſe the *Roman* Laws more then other People: And that *Frederick Barbaroſſa* the Emperour, cauſed the Books of the *Roman* Laws to be publiſhed and taught: the greateſt part whereof have yet no place in *Italy*, and much leſs in *Germany*: But there is much difference betwixt a *Right*, and a *Law*: for a *Right* ſtill without command reſpecteth nothing but that which is good and upright; but a *Law* importeth a Commandment; for the Law is nothing elſe but the Commandment of a Soveraign, uſing of his Soveraign Power. Wherefore then as a Soveraign, is not bound unto the Laws of the *Greeks*, nor of any other ſtranger, whatſoever he be, no more is he bound unto the *Roman* Laws, more then that they are conformable unto the Law of Nature, which is the Law whereunto (ſaith *Pindarus*) all Kings and Princes are ſubject. From which we are not to except, either the Pope or the Emperour, (as ſome pernicious Flaterers do) ſaying That thoſe two, *viz.* the Pope, and the Emperour, may of Right, without cauſe, take unto themſelves the Goods of their Subjects.

As to what is mention'd of baptizing Forein Eccleſiaſtical Laws, by the name of the King's Eccleſiaſtical Laws of *England*, he ſeems ſtill to miſtake, and puts baptizing by the name, where it ſhould have been confirmation by the name; and that confirmation too to be given, not by the Biſhops, but the Parliament. Beſides there is not *de facto* that name given; for the Eccleſiaſtical Court is kept in the Biſhop's name, and not in the King's name. And the Biſhop takes all the profits, and not the King. Fain he would mend the matter, and ſays, That a Leet is kept in the Lord's name, and he hath the profits, yet it is the King's Court. It might

Object. 5. Forein Laws cannot be baptized with the name of the King's Laws, without act of Parliament.

might better been ſaid, it was once the King's, before he gave it or ſold it to the Lord of the Leet; as are many Lands, not being Ancient Crown-Lands. The King purchaſes, but if he ſell again ſuch Lands for valuable conſiderations, the propriety, as well as the name of ſuch Lands is then in the buyer, and not in the King. Therefore, though he hath ſet out his Book as baptized, both in *Latin* and *Engliſh*, by the name of *de jure Regis Eccleſiaſtico*, and of the King's Eccleſiaſtical Laws; yet with due Reverence to the opinion of ſo great a Father of the Law, it may be ſaid there appears none, either to baptize or confirm the name, nor any God-father to it but himſelf. Neither will the Title of the King's Temporal Laws ſet upon *Magna Charta*, which gives that liberty to every Subject, of Tryal of his Birth-right *per legale judicium parium*, be conſiſtent with the Title of the King's Eccleſiaſtical Laws, which take it away, and give it to a Trial by Certificate of the Biſhop.

Object. 6. It is again by *Coke* alledged, and Precedents cited, That *Edward* the Confeſſor, *William* the Firſt, *Henry* the Firſt, *Henry* the Third, *Edward* the Firſt, *Edward* the Second; and all *Engliſh* Kings have Govern'd and Ruled both the Kingdom, and the Holy Church; and have given Juriſdiction to Abbots, Priors and Biſhops, and have granted prohibitions, when they tranſcended the bounds of their Juriſdictions, and that *Reges ſacro oleo uncti, ſunt ſpiritualis Juriſdictionis capaces*, but ſtill this is *nihil ad rhombum*, nor pertinent to make good the Name or Title he hath ſet his Book of the King's Eccleſiaſtical Laws: For there is a great difference, if he had Entitled it *de juriſdictione Regis Eccleſiaſtica*; for the King's Juriſdiction, and the King's Laws are clean divers things. And there is a great difference where he grants Juriſdiction to Eccleſiaſtical Perſons, and where he grants them by what Laws they ſhall exerciſe that Juriſdiction; for the King's of *England* have Anciently granted Juriſdiction and Commiſſions to Eccleſiaſtical perſons, as Biſhops and Prieſts, to be Judges in the *King's-Bench*, *Chancery*, and other Courts, yet could they not grant them power to judge by any other Laws than the Laws of *England*, except by Act of Parliament. Then as to granting prohibitions, where the King had not, or could not by Law grant them Juriſdiction, proves nothing that any King did, or could by Law, grant them Juriſdiction of general Baſtardy, without Act of Parliament; or that there was any Law or Act of Parliament, which gave them Juriſdiction of general Baſtardy, becauſe the King's Courts durſt not grant prohibitions for general Baſtardy. For in thoſe ſuperſtitious times, neither the King nor Judges dar'd provoke their Excommunication, and therefore at the making of the Statute of *Merton*, when the conteſt was between the Eccleſiaſtical and Secular Power, which of them ſhould give the Law to Marriage: The Temporal Judges for fear of their Excommunication, took only, like the *Jackal*, what the *Lion* refuſed, and left them, which they

they called ſpecial Baſtardy. So, *quod non capit Chriſtus, capit fiſcus*, which is intended of the falſe Chriſt; for the true Chriſt took nothing from it, but paid tribute to it. Beſides, if many Juriſdictions ſhould judge by other Laws, this would be deſtructive both to the King and Subject. Though the King therefore give the Sword, he cannot change the Ballance, as is in effect confeſs'd by *Coke* himſelf 3 *pt. Inſt. fol.* 120. in his Expoſition of the Statute 27 *E.* 3. of *Præmunire*: where he ſaith, If Freehold and Inheritance, Goods or Chattles, Debts or Duties, wherein the King and Subjects have a right or property, ſhould be judged *per aliam legem*, which he mention'd before to be Civil or Canon Law; And other Trial which he makes to be any Trial, except by Jury, or be drawn *ad aliud examen*; Theſe three miſchiefs endeavour'd to be prevented in the ſaid Statute, would neceſſarily follow, *viz.* Diſheriſon of the King and his Crown: the Diſheriſon of all his People, and the undoing of the Common Law: And *fol.* 121. he farther ſaith, Some have made a queſtion, whether ſince the Eccleſiaſtical Juriſdiction was acknowleged in the Crown, an Eccleſiaſtical Judge, holding Plea of a Temporal Matter belonging to the Common Law, doth incur the danger of a *Præmunire?* Though hereof is no queſtion at all, yet leſt any Man might be led into an Error in a Caſe ſo dangerous, we will clear this point by Reaſon, Precedent, and Authority. The Reaſon holdeth ſtill to draw the Matter *ad aliud examen* &c. And he citeth before ſeveral Precedents; and ſays, The reaſon of all theſe Caſes is, becauſe it drawes matters Triable at Common Law *ad aliud examen*, and to be diſcuſſed *per aliam legem*.

The right of King and Subjects not triable *per alias Leges*, or *ad aliud Examin* then the Laws of the Land.

Peter du Moulin that famous Proteſtant Divine writes, That there was a Book printed in the former Age, entitled *The Canons of the Apoſtles*, whereby the Temporal power of the Pope is wholly taken away. And the ſixth Canon expreſly forbids a Biſhop to meddle in Civil affairs. And in the 84th Canon are theſe words, *A Biſhop that meddles in War, or ſeeks to obtain theſe two things, that is to ſay, the Empire of* Rome, *and the Sacerdotal Government, let him be depoſed; for the things of* Cæſar *are to be given to* Cæſar, *and the things of God to God.* And that one *Arnold* who Preached this Doctrine, That the Pope had no Juriſdiction, nor any thing to do with the Temporal affairs with great applauſe; was in the year 1155 made a Martyr, and moſt cruelly burnt at *Rome*, by the order of Pope *Adrian*. And this agrees with the Teſtimony of Chriſt himſelf, not only as to Juriſdiction of Marriage and Legitimation, but all other matters wherein Temporal propriety comes in queſtion, that he refuſed the Juriſdiction of it; as appears *Luk.* 12. 13. *And one of the company ſaid unto him, Maſter, ſpeak unto my Brother, that he divide the inheritance with me. And he ſaid unto him, Man, who made me a Judge or Divider over you?* It appears therefore, the Epiſcopal Juriſdicton of judging or dividing Temporal goods in the Spiritual or Eccleſiaſtical Courts, came not from

Anti-Chriſtian.

Biſhops Judg.

Chriſt, but was uſurped by Anti-Chriſt, by force of Fire and Faggot, and is from him derived to Biſhops and Eccleſiaſtical Courts; to the deſtruction of the rights of Princes, and the liberty and propriety of the people, who ought only to ſtand to *Cæſar*'s Judgment Seat, and to be tried *per legale judicium parium* for the ſame.

According to this principle *Henry* the firſt (Pope *Paſchal* ſeeking to incroach on the liberty of the Kingdom) writes unto him in this manner, *Notum habeat ſanctitas veſtra, quod me vivente, auxiliante deo, dignitates & uſus Regni noſtri* Angliæ, *non imminuentur, & ſi ego, quod abſit, in tanta me dejectione ponerem. Optimates mei & totus* Angliæ *populus id nullo modo paterentur.* Let your Holineſs know, that by God's help, while I live, the Dignities and Cuſtoms of our Kingdom of *England* ſhall not be diminiſhed, and though I (which God forbid) ſhould ſuffer my ſelf to fall into ſo dejected a condition, my Nobles and whole People of *England* will never ſuffer it.

Object. 7. It is further objected in behalf of Trial of marriage by Eccleſiaſtical Laws, that by the Statute of 25 *H.* 8. *c.* 19. which gives power to the King to appoint 32 perſons to examin the Canons and to continue ſuch as they think fit, and abridge the reſt: It is provided, That ſuch Canons, Conſtitutions, Ordinances, and Synodical Provincials, being already made; which be not contrariant or repugnant to the Laws, Statutes, and Cuſtoms of this Realm, nor to the damage or hurt of the King's Prerogative Royal, ſhall now ſtill be uſed and executed, as they were before the making of this Act, till ſuch time as they be viewed, ſearched, or otherwiſe order'd and determined by the ſaid 32 perſons, or the moſt part of them, which Statute is revived 1 *Eliz.* 1. To which is anſwer'd, That 1. what is contrariant or repugnant to the Law of God, is made void, without this *proviſo*; and the aſſuming the Juriſdiction of marriage, and dividing Inheritances inſuing thereby, is before proved to be Anti-Chriſtian, for Spiritual perſons who alledge themſelves Succeſſors of Chriſt; and much more therefore the aſſuming the Legiſlative power, or giving Laws or Canons for the ſame. 2. It is ſhewen likewiſe before, that the ſame power of Legiſlation and Juriſdiction concerning marriage, was uſurped by Fire and Faggot, and Excommunication, and therefore their Canons concerning marriage are not intended, or if they were, yet this *proviſo* cannot Lawfully preſerve ſuch uſurpations ſo contrary to the Law of God. 3. It is manifeſt that all Eccleſiaſtical Juriſdiction, and Laws, and Canons of marriage are contrariant, and repugnant to the Laws, Statutes and Cuſtoms of this Realm, as, Firſt the Canons then made were, That marriage ſhould be a Sacrament, and thereby draw to it ſelf Eccleſiaſtical Juriſdiction, which latter Acts of Parliament eſtabliſhing the Proteſtant Religion, doth thereby aboliſh the being of marriage a Sacrament; and conſequently the Juriſdiction Eccleſiaſtical incident to it as a

Sacrament

Sacrament, and the Canons which make it ſo, or give any Eccleſiaſtical Juriſdiction relating to the ſame. 4. All Eccleſiaſtical Canons of marriage are contrariant and repugnant to *Magna Charta*, and draw the Subject from his liberty, propriety, and Birth-right *ad alias leges, aliud examen*, and *aliud judicium*, then *legale judicium parium*: which *Magna Charta* of liberties to the Subject, hath been confirmed by ſeveral Kings ſucceeding, above thirty times.

It is objected, Admit there is no Act of Parliament gives Eccleſiaſtical Courts Juriſdiction of Marriage, yet the unwritten Law of Uſe and Cuſtom, which is the Common Law of *England*, and ſo long toleration gives it. Object. 8:

To which may be anſwer'd, That by the Canon Laws *Malus uſus abolendus*: beſides there was never any uſe of Juriſdiction of marriage in the Eccleſiaſtical Courts, otherwiſe then in reference to the ſame, as being a Sacrament; which being now taken away, *ceſſante cauſa & ratione legis, ceſſat & lex.* So likewiſe, where the thing, which a Uſe or Cuſtom concerns, is but changed, the Uſe and Cuſtom vaniſheth: as if by cuſtom a *Rate Tith* be paid for two Fulling Mills in one Houſe, and one of them is changed to a Corn Mill, the cuſtom is gone. But beſides, this being *malus uſus*, is of it ſelf void, and were it never ſo long uſed, can never grow to have the obligation of the Common Law, or to be thereby the Common Law: As was well anſwered by a young Gentleman, when complaint was made in Parliament, againſt the wrongful incroachments of the Eccleſiaſticks; and they alledged for themſelves, That they had uſed and accuſtomed, time out of mind, to practiſe what was excepted againſt. He reply'd, So have Thieves at *Shooter's*-Hill uſed, time out of mind, to Rob there, yet the Law allows no ſuch preſcription, nor doth the forced Toleration of their wickedneſs, by ſuch people as were not able to reſiſt their Robberies, oblige Succeſſors to follow their precedents.

Reaſons againſt Eccleſiaſtical Laws concerning Marriage.

The firſt Reaſon againſt Eccleſiaſtical Laws is in regard of the wicked Authors, for all the Laws by which Biſhops judge Marriage, Filiation, Aliment and Succeſſion, were invented by *Demons*, *Pagan* Gods and Goddeſſes, Magicians, *Aruſpices*, Aſtrologers, South-ſayers; Prieſts of *Priapus*, and *Venus*, *Jupiter*, *Juno*, *Cybele*, *Flora*, *Diana*, common Proſtitutes, Popiſh Saints, Popiſh Councils, Popes or Papiſts. The Canon prohibiting and nulling all Marriage, without a Prieſt in a Temple, except by the Pope's good Licenſe or Diſpenſation, was made by the Pope and the Council of *Trent*, as appears, *Ego Concil.* 147. *pt.* 5. *& Concil.* 197. *pt.* 6. as a main Pillar to ſupport their tottering Kingdom, againſt the growing 1. Eccleſiaſtical Laws of Marriage came from the Devils &c.

All marriage Preists inſtituted in the Myſteries of *Priapus.*

ſtrength of the then *Lutheran* Proteſtants; and they took their pious precedents from the old *Pagan* Prieſts of *Priapus* and *Venus*, and they had it from their *Damons* or Devils. That all the ancient *Pagan* Prieſts were firſt initiated in the Myſteries of *Priapus*, before they could be capable to execute the Prieſts office, cannot be denied; and is teſtified by divers Authors, and particularly by *Cornelius Agrippa de van. Sci. p.* 738. in theſe words, *Sordidiſſimus* Priapus *pro Deo habitus, hunc coluerunt primi illi Religionum artifices* Chaldæi, Ægyptii, Aſſyrii, Babylonii, Arabes, Scythæ, Æthiopes *ac perinde tota* Africa, Aſia & Europa: *nec fas erat ullum ſacerdotem fieri, qui* Priapi *ſacris non erat initiatus. Hic eſt ille* Belphegor, *idolum omnium antiquiſſimum, quod &* Chamos *dictum eſt à* Chamo *filio* Noe. The filthy *Priapus* was eſteemed a God, and was worſhiped by thoſe firſt founders of Religion, the *Chaldeans, Egyptians, Aſſyrians, Babylonians, Arabians, Scythians, Phœnicians, Ethiopians*, and even all *Africa, Aſia*, and *Europe*: neither was it lawful for any to be a Prieſt, unleſs he were firſt initiated in the Rites of *Priapus*. This is that *Belphegor* of all other Idols the moſt ancient, which is likewiſe called *Chamos* of *Cham*, the Son of *Noah*. Now this was the Law of theſe Prieſts, for the wicked ends which are after mentioned..

Diſpenſation with Inceſt came from Dæmons.

The ſame, or a worſe initiation had thoſe ancient Prieſts called *Magi* of the *Perſians*; for they, before they could be initiated, were to lye with their Mother, Siſter, and Daughter. As to the Mother, *Xanthus* teacheth *in magicis, Ut magus ex matre & nato naſcatur, oportet.* On which ſome paſſages collected by *Saidus Batricides* Patriarch of *Alexandria*, out of the Oriental Monuments, Language and Characters, concerning *Nimrod* the Giant, King of *Babylon*, are tranſlated by *Selden, de jure nat.* 624. *viz.* That when *Nimrod* had obſerved the ſhape of a Crown to be in the Clouds, he cauſed a Crown to be made, and ſet it on his Head; whence it was reported amongſt the vulgar, that he received a Crown from Heaven. And he is likewiſe ſaid to be the firſt who worſhipped the Fire, for he ſaw fire in the Eaſt, aſcending out of the Earth; and thereupon drew over to diſcern it, and worſhipp'd it. And then appointed a Prieſt to offer in the ſame place Incenſe to it, and from that time the Prieſts called *Magi* began to worſhip the fire, and the name of the firſt Prieſt, whom *Nimrod* appointed for that office, was *Andſhan*, to whom a *Dæmon* out of the mid ſt of the fire, ſpoke theſe words; *No Man can be conſecrated, or underſtand my Sacred Rites, unleſs he firſt lye with his Mother, and Siſter, and his Daughter.* And *Andſhan* did according as the *Dæmon* taught him, and from that time, ſuch *Magi* as perſormed the office of Prieſts, uſed to lye with their Mothers, Siſters and Daughters; and *Andſhan* was the firſt who began the cuſtom.

That theſe Prieſts of *Priapus* had their Doctrine from the Devil, appears by the uſe they put it to, for theſe were Prieſts, who bringing the

the Women to their Sacrifices, and Temples, drew the *Iſraelites* to Idolatry, as appears *Numb.* 25. 1. where it is ſaid, *And the people began to commit Whoredom with the Daughters of* Moab. *And they called the people unto the Sacrifices of their Gods, and the people did eat, and bowed down to their Gods. And* Iſrael *joyned himſelf to* Baal Peor: from the Hill *Peor*, where was the Temple call'd *Beth Peor*, and mention'd *Deut.* 3. 29. So what Prieſts and Gods they were, who firſt drew Women to publick Sacrifices, and Temples appears by this. It's before ſhewen, that Laws tending to ſo much uncleanneſs, as drawing marriages of Women to Temples, teſtifie they come from unclean Spirits, and not from God, who is Holineſs it ſelf. I ſhall, as to that, add only one more Hiſtory of a Perſon who was in as great reputation for holineſs and learning, and greater than any Pope, which is Doctor *Dee*; yet was he deluded by the Devil, appearing firſt in the likeneſs of an Arch-Angel, and then of Chriſt himſelf; and there is no other mark to prove him the Devil, but the uncleanneſs of the Doctrine he taught, though in moſt Angelical, yea Arch-Angelical Language. And this is thought by all a ſufficient proof; and the ſame argument therefore of the Uncleanneſs, Covetouſneſs, and Ambition of this Law, proves that the Popes who have been divers of them as great Magicians as the *Babyloniſh Andſhan* before mention'd, and other *Magi* had it from the Devil. The firſt Law of Community of Women was given by *Plato*'s *Dæmon*, in his private Oracle, and endeavoured to have been revived by the like *Dæmon* in a private Oracle to Dr. *Dee*.

Plato's Dæmon of Community of Women.

The Hiſtory of the Devil appearing in ſhape of Chriſt to Doctor Dee, *and tempting him, and his Seer* Kelly, *to a Covenant of Community of Wives.*

Anno Dom. 1583 or thereabouts, Dr. *Dee* had two pretious Stones, or Cryſtals, which he called the ſeeing Stones, given him by Spirits, whom he believed to be good Angels. And *Edward Kelly* had the gift of ſeeing all Apparitions made in thoſe Cryſtals or pretious Stones, and of reading and interpreting whatſoever ſeem'd to be written in them. After long converſe by Dr. *Dee*, with theſe Spirits, and a multitude of Apparitions repreſented, and ſome Diſcourſes of ſecrets, and ſome Miracles ſhewen with the ſame; The Spirit in ſhew appointeth to tranſlate the gift of ſeeing from *Kelly* to *Arthur*, the eldeſt Son of Dr. *Dee*; of the burden of which *Kelly* deſired to be freed, but the ſucceſs followed not to *Arthur*, but ſtill continued to *Kelly*; and *Madimi* an Apparition, who appeared to Dr. *Dee* himſelf, at the beginning of his acquaintance with Spirits, in the ſhape of a Woman appeared to *Kelly* in the Air (being really unwilling to tranſlate his office to *Arthur*) and other Spirits with her in

Dr. *Dee*'s Dæmon of Community of Women.

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an unſeemly behaviour, and he is therefore again deſired by Dr. *Dee* to ſee again in the ſame.

Ed. Kelly. There appeareth *Madimi*, ſhe openeth all her apparel and her ſelf all naked, and ſheweth her ſhame alſo.

Ed. Kelly. Fie on the Devil, avoid hence with thy filthineſs, *&c.*

Madi. In the name of God, why find you fault with me?

Dr. *Dee.* Becauſe your yeſterdays doings and words are provocations to ſin, and unmeet for any godly Creature to uſe.

Madi. What is ſin?

Dr. *Dee.* To break the Commandments of God.

Madi. Set that down.

Madi. If the ſelf ſame God give you a new Commandment, taking away the former form of ſin, which he limited by the Law, what remaineth then?

Dr. *Dee.* If the ſelf ſame God that gave the Law to *Moſes*, and gave his new Covenant by Chriſt, who ſeal'd it by his blood, and had his Witneſſes very many, and his Apoſtles inſtructed by his holy Spirit who inſtructed us in all cleanneſs in words and works, yea and in thoughts, if by the ſame God thoſe former Laws and Doctrines be abrogated, and the ſufficient proof and teſtimony may be had, that it is the ſame God, then muſt the ſame God be obeyed.

Madi. A Privilege granted doth not abrogate a Law, but confirm it, *&c.*

Here *Arthur* was ſmitten in a ſwoon, and *Edward Kelly* ſaw one in a long White-Garment make, as if he would ſtrike him, and he became very ſick for the time.

Madi. Whatſoever the Spirit of God teacheth as from him, though it appear ſin before man, is righteouſneſs before him. Therefore aſſure your ſelves, whatſoever is ſeen and heard amongſt you, is from above; and it is a ſign and teſtimony this day before you, for I that touched thy Son might have taken away his breath.

After other paſſages, Dr. *Dee* deſired the *Seer Kelly* to enquire of certain words *Madimi* had ſpoken the day before. That they two had their Wives in ſuch ſort, as they might uſe them in common; whether ſhe intended Spiritual or Carnal Community?

Ed. Kelly. Upon a ſcroll like the edg of a Carpet, I ſee is written *De Utroq; Loquor.*

Dr. *Dee.* The one is expreſly againſt the Commandment of God, neither can I by any means aſſent to conſent to that Doctrine, and for my help in that verity, I call down the Power of Almighty God, Creator of Heaven and Earth, and all the good Angels, his faithful Miniſters, to aſſiſt me in the defence of the faithful obedience to the Law of the Goſpel, and of his Church. Aſſiſt me O *Chriſt*, aſſiſt me O *Jeſu*, aſſiſt me O *Holy Spirit*. *Ed. Kelly.*

Ed. Kelly. It appeareth written on a White Crucifix, *My Grace is greater then the Commandment, for my Grace is ſuch, that Mad-men ſhall attain Bleſſedneſs. Verily I ſay unto you, If I command a man to kill his Brother, and he doth it not, he is the Child of Sin and Death,* &c.

Dr. *Dee.* Hereupon we were in great amazement, and greif of mind, that ſo impure a Doctrine ſhould proceed from ſuch, as I, from the beginning, and hitherto had judged, and undoubtedly eſteemed good Angels, and had unto *Edward Kelly* offer'd my Soul as a pawn to indemnifie *Edward Kellys* crediting of them, as the good and faithful Miniſters of Almighty God. But now my heart was ſore afflicted on many cauſes, and Mr. *Edward Kelly* had as he now thought he had, a juſt cauſe of leaving dealing with them any more; and his Prayer to God had been as he ſaid of a long time, that he might have power to do it. Afterward I made ſome Declaration to our Wives of this our great greif, by reaſon of the Command laid upon us, to uſe Matrimonial Acts between us four in common, which thing was ſtrange to the Women, and they hoped of ſome more comfortable iſſue of the matter, and ſo for that time I left off.

After *Edward Kelly* had been four hours in ſeeing new Apparitions, giving him admonition to receive the ſame Doctrine, with threatning of Judgment upon us, if we ſhould not; and many other things told me. We departed each to Bed, where I found my Wife awake, attending to hear ſome new matter of me. And we being alone, I then told her, and ſaid, *Jane* I ſee there is no other remedy but as hath been ſaid, of our croſs Matching, ſo it muſt needs be done. Thereupon ſhe fell a weeping and trembling for a quarter of an hour, and I pacified her as well as I could, and ſo in the fear of God, and beleiving of his Admoniſhments, did perſuade her, that ſhe ſhewed her ſelf prettily reſolved to be content for God's ſake, and his ſecret purpoſes, to obey the Heavenly admoniſhment But *Edward Kely* who had divers other Apparitions made to him in his own Chamber, remained notwithſtanding in his purpoſe of forſaking, and utterly diſcrediting theſe Creatures.

A Spirit calling himſelf *Raphael* the Arch-Angel, there ſpeaketh to them who were not ſatisfied with the Teſtimony of *Madimi.*

Raphael. Dear is thy Wife, more dear is Wiſdom, and moſt dear ought I to be unto thee: Thou being Elected trembleſt, and by doubting ſinneſt, all theſe things are lawful unto you, I admoniſh you as the Children of God, to conſider your Vocation and the love of God towards you, and not to prefer your Wiſdom before the Wiſdom of the Higheſt, whoſe Mercy is ſo great towards you. Conſider, that if he find you obſtinate, the Plagues of hainous Sinners, and the contemners of the gifts of God, ſhall fall upon you. Therefore ſhew your ſelves

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lovers of him that hath led you and cover'd you with a mighty Sheild, or ſhortly look for the reward of thoſe who contemn the Wiſdom and Majeſty of the Higheſt. I *Raphael* counſel you to make a Covenant with the Higheſt, and to eſteem his Wing more then your lives. After ſome little diſcouſe and conference there, they went to Bed. *April 20th.* 1587.

April 21th. 1587. *John Dee*, *Edward Kelly*, *Jane Dee*, and *Jane Kelly*, promiſe to God though above their Carnal reaſon, in *Abraham*-like faith and obedience, to ſubſcribe a Covenant to him to have one another in common.

April 22th. 1587. *Edward Kelly* having on further conſideration, a new reluctancy concerning this promiſcuous Matrimony, makes a Declaration in writing that he would from that forward no farther meddle therein.

April 24th. There are further Prayers made to God, deſiring a further manifeſtation of his pleaſure concerning this new Doctrine ſo contrary to the Laws formerly promulgated by him.

A great flame of Fire appeareth in the principal ſtone ſtanding on the Table before *Edward Kelly*, and behold one ſuddenly ſeemeth to come into the South Window of the Chappel, right againſt *Edward Kelly* (but before that, the ſtone was heaved up an handful high, and ſet down again well) which thing *Edward Kelly* did think ſignified ſome ſtrange matter toward. Then after, the man, who came in at the Window, ſeem'd to have his nether parts in a Cloud, and with ſpread abroad Arms to come towards *Edward Kelly*, at which ſight he ſhrunk back ſomewhat, and then that Creature took up between both his hands the principal ſtone and frame of Gold, and mounted up away as he came, *Edward Kelly* catch'd at it, but could not touch it, at which thing ſo taken and carried away, and at the ſight thereof *Edward Kelly* was in great fear and trembling, but Dr. *Dee* was glad and well pleaſed. A Fire next appears in the leſſer ſtone, left behind on the Table, and a man in the fire with flaxen hair hanging down on him, being naked to the Paps, with ſpots of blood upon him, and in the ſhape of Chriſt.

Chriſt. If I had intended to have overthrown you or brought you to confuſion, or ſuffered you to be led into temptation beyond your ſtrength and power, then had the Seas long ſince ſwallowed you, yea there had not a Soul lived amongſt you. But the Law and tidings of Gladneſs in Mankind, are both grounded in me. I am the beginning and the end, behold I was even my ſelf the figure of Miſery and Death for your Sins, why therefore diſdain you to be figured after me? And as I have made you the figure of two People to come, ſo have I likewiſe ſanctified you in an holy Ordinance, giving you the firſt-fruits of the time to come, contrary to my ſelf; I teach you nothing, for this Commandment is not to be given to Mortal men, but is given to you to manifeſt your Faith. I

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I am the firſt and the laſt, and I will be Shepherd over all, that the Kingdom of my Father may come, and that my Spirit may be on all fleſh, where there ſhall be no Law, nor need of light; for I my ſelf will be their light for ever. I am Holy and Holineſs it ſelf, and out of me cometh no unclean thing, and if there be any of you that ſeeketh a Miracle at my hands, and beleiveth in my words, let him or her preſent themſelves here next *Monday*, and he ſhall perceive that I was the Judg of *Abiram*, and the God of *Abraham*.

May 3*d.* being *Sunday*, 1587. *Stylo Novo*, A Covenant with God is drawn into form, that according to his new Commandment they will by *Abraham*-like-faith and obedience, uſe Matrimonial Acts with one another in common, and was ſubſcribed by *John Dee*, *Edward Kelly*, *Jane Dee*, and *Joan Kelly*, at *Trebon-Caſtle*. The Covenant being thus formed, written and ſubſcribed by the parties on their parts, it was thought neceſſary by them that God ſhould make ſome manifeſtation on his part, that he would accept it in that form of words it was written; and to that end Dr. *Dee* with *Edward Kelly*, went to the Chappel to the South Table, and there Dr. *Dee* ſaith, he firſt praying to Almighty God, Creator of Heaven and Earth, to encreaſe his Faith, and open the eyes of his Heart. He read over the Covenant *verbatim*, before the Divine Majeſty and his holy Angles. After a quarter of an hour *Madimi* appeareth.

Madi. Pepigiſtis?

Dr. *Dee. Pepigimus.*

A Voice. *Ratum eſt, perrumpite; ſunt vobis omnia communia Dei non hominis, eſtote promiſſa quæ ſunt, poſſidete vobis diſtinata: Æternus ſum.*

Edward Kelly declared formerly his opinion, That all Spirits appearing in the ſhape of Women were evil Spirits, and not good, which it ſeems made him not again acquieſce in his apparition of *Madimi*: he therefore *May* 20*th.* required again the writing ſubſcribed, to expunge his name from it; but having got it, he cut it into two equal parts, and kept that part wherein were his own and his Wives names, and returned the other to Dr. *Dee* and his Wife: But afterwards *Madimi* did with her finger drawn on the two papers make them whole again, *&c.*

Then an apparition is made of Chriſt ſtanding in a great Globe of Fire with a Purple Robe.

Chriſtus. Who ſitteth on the Cherubims, *&c.* As I humbled my ſelf to Death, wherein the Unity between my Congregation and me was before my Father perpetually ſealed, *&c.* So be you content to be the figures of the things that are to come by you, that it may be a perpetual Teſtimony before the Heavens, and before Men, of your perfect and ſound faith. And thou, even thou, who haſt tore in peices this Morning this Covenant which thou haſt made with me, behold the time ſhall come that

thou ſhalt be torn in peices thy ſelf, and I will turn away my face from thee for a time, &c. But becauſe thy mind was never to forſake me, even ſo ſhalt thou never be forſaken of me. Take heed of the Tempter, thou madeſt a Covenant with me in paper, which thou canſt not by tearing the ſame put out, for my Regiſter is Eternal. He that pawneth his Soul for me, loſeth it not; and he that dieth for me, dieth to Eternal life; Behold you ſhall both as Lambs be brought forth before men in your later days, and ſhall be ſlain, and your Bodies toſſed to and fro, but I will revive you again.

Dr. *Dee.* After which, as I and *Edward Kelly* walked out at the new ſtairs into the new Orchard along the little River, to veiw the ſmall Fiſh, and returning to the fore-ſtairs again, *Edward Kelly* ſaw two as high as my Son *Arthur*, fighting with Swords by the River-ſide, and the one ſaid to the other, Thou haſt beguiled me. Then I at length ſaid unto them, Can I take up the matter between you? One ſaid, Yea that you can: In what is it ſaid I? Then ſaid he, I ſent a thing to thy Wife by my Man, and this Fellow hath taken it from him; they fought ſore: at length, he that had it, was wounded in the Thigh, and it ſeem'd to bleed, afterward he that was wounded did bring a yellow ſquare thing out of his boſom, then I gueſſed it to be my ſtone which was carried away, as is mention'd before; ſuddenly he ſeem'd to have been out of ſight, and to be come again, he threatned the other that had wounded him, and ſaid, He would be even with him, he asked whether he had lain it under the right Pillow; at length they both went one after the other into a little Willow-Tree-Body, on the right-hand next the new Stairs into the Garden, the Tree ſeem'd to cleave or open, and they to go in.

Hereupon we went away, and I coming to my Chamber found my Wife lying on her Bed, where I lay yeſternight, and there I lifted up the right Pillow on which ſhe lay, and there I found my pretious ſtone that was before taken away by *Madimi*, whereat *Edward Kelly* greatly wondred, and doubted the verity of the ſhew, but I and my Wife rejoiced, thanking God.

Saturday May 23th. Præces ad Deum fundebam, &c. And then we requeſted, That the Act of Obedience performed according to our Faith, conceived of our Vocation from the Almighty and Eternal God of Heaven and Earth, might be accepted, which is by Apparition and Voice accepted and bleſſed.

So hence none doubts to conclude, that the Spirits which here appeared and aſſumed the names and ſhape of an Arch-Angel and Chriſt were Devils transformed, and neither good Angels nor Chriſt, becauſe they tempted to Adultery and Uncleanneſs.

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The like Community is ſet up by Eccleſiaſtical Laws and Biſhops, by pardoning for Money the deflouring and deſertion of as many Virgins as you will, ſo you marry them not before a Prieſt in a Temple; and by the Popiſh Clergy who have liberty for a ſmall rate or *Taxa Cameræ*, to lie with as many Women-Virgins or Wives as they will, ſo they marry them not before a Prieſt in a Temple. Biſhops ſet up Community of Women for Commutation money.

So the Authors of the Biſhops Certificate of Filiation, were the Dæmons of *Hamon Delphos*, and other Oracles, where it appears it was the Cuſtom amongſt the Heathens, when any Son doubted or knew not his Father, to conſult the Devils Oracle, as appears by the example of *Alexander* the Great, *Oedipus* and others, and the Devil gave them their Reſponſe by his Arch-biſhop or Prieſt, and if they went not to him in perſon, but ſent by Certificate in writing, which is the ſame with the Certificate of the Biſhop. Biſhops Certificate of Filiation.

So the Law of Fictions of Marriage by intention of the Mind only, without carnal knowledg of the Body, and *verba de præſenti* without the Act, and *Conſenſus non Concubitus facit matrimonium* came firſt from *Cecrops* an Idolatrous King of *Athens*, and was ſince revived in imitation of him by Idolatrous Popes: and the ſame Law was confirmed by the Pagan Goddeſs *Juno*, and the Popiſh Mother of St. *Kentegern*, both got with Child without a Man, as after more at large mention'd, to the intent Husbands might not be Unbelievers, if their Wives were got with Child without them, ſeeing it is ſufficient if they had a good intention in their Mind, and ſpoke *Verba de præſenti*, and there was *Conſenſus non Concubitus*. *Conſenſus non Concubitus.*

So the Law was firſt invented by *Aruſpices*, South-ſayers and Aſtrologers, of prohibiting Times and Seaſons of Marriage; for the *Greeks*, *Romans*, *Chinoys*, and other Heathen Nations believed their Marriages could not be happy, unleſs the Birds and the Stars were conſulted for a lucky day and lucky hour, to which purpoſe is that of *Juvenal*, *Veniet cum ſignatoribus Auſpex*, and of *Ovid*, *Menſe malum Maio nubere vulgus ait*; and they declared to the parties the unlucky *Ides*, *Kalends*, and all the diſmal times and days, which got the Cheats much money from the fooliſh people, and to continue the ſame Trade the ſame was revived by Popes and Councels of *Laodicea*, *Iterda* and *Trent*, by their prohibitions of Marriage in times of *Advent*, *Septuageſima* and *Rogation*. Times when Marriages go out and come in.

Pope *Soter* made the Law prohibiting Marriage without delivery of the Woman by the Father, and receiving a Benediction from the Prieſt; yet Chriſt ſaith, *For this cauſe ſhall a man leave father and mother*, (and though a Father may deny to give his Daughter ſo liberal a Portion if ſhe marry without his conſent as he would give with it, yet can he not prohibit her to marry); and when *Rachel* ſaid to *Jacob*, *Give me children, or I die:* and he in anger replyed, *Am I God*; he thereby ſhews that Delivery by the Father, and Benediction by the Prieſt.

'tis not the Benediction of the Prieſt, or Pilgrimages to Saints cauſe fertility or ſterility, but Children are the gift of God.

Marriage within the fourth degree.

Pope *Calixtus* made the Law prohibiting Marriage within the fourth degree, either of Conſanguinity or Affinity, and others extend the ſame as well to Spiritual as Carnal kindred.

Licenſe to marry.

The Law prohibiting Marriage without Licenſe, was firſt ſet up by the Prieſts of *Priapus* and *Venus*: And the Prieſts of *Diana* her ſelf, could no more live without Licenſe-money for Marriage, then thoſe of *Venus*; which made the Virgins of *Greece*, before they preſumed to marry, humbly to beg the Goddeſs's pardon, that they left her Nunnery, for which they brought good Fees and Offerings to the Prieſts.

Power of the Pope tranſlated to the Arch-Biſhop of *Canterbury*.

The Law of Diſpenſations, Legitimations, and Confirmations of Marriages, and Children, and the whole Papal power therein tranſlated to the Arch-Biſhop of *Canterbury*, by 25 *H.* 8. 21. was made by Papiſts in a time of Popery.

Banes.

The Law of Banes was invented by Popes and revived by the late long Parliament, and the Laws of *New England*, only tranſlating the Marriage to the Magiſtrate inſtead of the Prieſt.

Marriage without a Prieſt or Temple.

The Law prohibiting marriage without a Prieſt and a Temple, was invented by the Prieſts of *Priapus* and *Venus*, and revived by the Pope and Council of *Trent*.

Strumpets.

In all theſe Eccleſiaſtical Laws of Marriage, the two Strumpets, *Theodora* of *Juſtinian*, and *Theodora* of Pope *Sergius*, and that impudent Queen *Marozia*, and other Strumpets of the Popes had a great hand. We are like therefore to have excellent Laws in the Biſhops Courts, and Juſtice for Marriage, Filiation, and Succeſſion, while the Laws of ſuch Legiſlators continue.

All Laws prohibitory of Marriage or Meats came from the Devil.

Laſtly, There needed not to thoſe who believe the Scripture, this Recital of ſo many wicked perſons, to be Authors of this mention'd Eccleſiaſtical Laws; for it is manifeſt by the Scripture it ſelf, that all Laws prohibitory of Marriage or Meats (they being things not indifferent, but neceſſary for the preſervation of Humane Nature) in the leaſt Ceremony or Circumſtance, where they are not prohibited by the Law of God, came from the Devil, as appears, 1 *Tim.* 4. 1, 2, 3. *Now the Spirit ſaith expreſly, That in the latter times ſome ſhall depart from the faith, giving heed to ſeducing Spirits, and Doctrines of Devils, ſpeaking lyes in Hypocriſie; having their conſciences ſeared with an hot Iron, forbidding to marry, and commanding to abſtain from meats, which God hath created to be received with thankſgiving.* I conclude therefore, that all the fore-mentioned Eccleſiaſtical Laws, prohibiting marriage, without their Popiſh Ceremonies or Circumſtances not appointed by God, came from the Devil, or many Devils.

The Final cauſes of the Eccleſiaſtical Laws concerning Marriage invented by Dæmons, *and the Prieſts of* Priapus *and* Venus, *were Luſt, Covetouſneſs and Ambition of the Prieſts.*

The ſecond Reaſon againſt Eccleſiaſtical Laws, is the wicked ends for which they were invented, which were no other but only to ſatisfie the inſatiable Luſt, Covetouſneſs, and Ambition of Prieſts.

Luſt, Covetouſneſs, Ambition, of Prieſts, the only ends of Eccleſiaſtical Laws of Marriage.

As to which the *Indian* Hiſtories mention, That in the Kingdom of *Molabar*, neither the King or People are allowed to have a Wife, unleſs ſanctified for him by the firſt nights Lodging of the holy *Bramin*, who is their Prieſt: which is the reaſon that there the King's Sons ſucceed not to the Kingdom, but their Siſter's Sons; for they ſay they know not the Father, but they know the Mother. *Linſchot.* Little better is done in Catholic Kingdoms often times, though not openly, yet ſecretly, by thoſe unchriſtian *Bramins*, the Cardinal Confeſſors; and it is common in *Italy* for Catholics to jeer one another, that their Children are *Fils de Preſtre.*

The *Benyan Indians* give their Prieſts the firſt fruits of their Wives, and think the Marriage will not be bleſſed without it. The Southern *Americans* in divers parts, think it a great Devotion to offer their Daughters, to be firſt defloured by the Prieſt. The *Algier Mahometans*, and the people of other parts of *Africa*, think it a meritorious work, to proſtitute their Wives to their *Morabates* or holy Saints, whom they eſteem their Prophets. And *Leo Afer*, who was that Countrey-man, tells a ſtory of one of theſe holy Prophets, who came to a Town, and eſpying a handſom Woman, being a perſon of very good quality and great eſteem in the Town; yet the Prophet took her being at a Bath, and lay with her openly in the concourſe of a great multitude of people, who applauded the Fact as a great honour to the Lady; and many of them ran to congratulate her Husband, how happy he was to have ſo holy a Man partner with him in his Wife: and when ſome of the better ſort of people, whoſe diſcretion was a degree above the common ſuperſtition of their Religion, went and informed the Magiſtrates of the Town, of the foul and ſhameful act was committed by a Vagabond Prophet, and they ſent their officers to apprehend him; the people roſe upon them, and would have knockt out the Brains both of Officers and Magiſtrates, had they not ſpeedily deſiſted. *Carpenter* reporteth from a Monk of *Doway*, That not long ago it was a cuſtom in *Biſcay*, a Province in *Spain*, that every Man having married a Wife, ſent her the firſt night to the Prieſt of the Pariſh, which it ſeems was the Fee due to the Prieſt for his labour, the ſame day of marrying her in his Temple, *Carp.* 193. So it was *at the door of the Tabernacle.* Hophni *and* Phinehas, *Sons of the Prieſt, lay with the Women of*

the

Auricular Confeſſion.

the congregation. 1 *Sam.* 2. 22. To the Temple of Marriage, the Popiſh Prieſts have of latter times added the Chappel of Eaſe of Auricular Confeſſion, in a more commodious Sanctuary of the Ladie's Chamber, then a publick Temple; where having told her a ſtory of the *Lucrin* Lake of Fire and Brimſtone; and the *Avernus* of Purgatory, and waſh'd her in a Bath of Tears; ſhe who was before chaſt and cold begins to grow warm, as the Wife in *Martial* did, waſh'd in the like water.

Caſta, nec Antiquis cedens Lævina *Sabinis,*
Et quamvis tetrico triſtior ipſa viro!
Dummodo Lucrino *dum ſe permittit* Averno
Et dum Baſanis *ſæpe fovetur aquis,*
Incidit in flammas juvenémq; ſecuta, relicto
Conjuge, Penelope *venit, abit* Helene. Martial *lib.* 1. *p.* 32.

Chaſt as old *Sabine* Wives *Lævina* was,
And than her own ſowre Man more ſad alas!
'Till ſince in *Lucrin*, and *Avern*, ſhe hath
Been waſh'd and fir'd in water of the Bath:
Her old Man left, then for a young ſhe burn'd,
Penelope ſhe went, *Helen* return'd.

O quoties, ſaith *Cornelius Aggrippa*, *nova nupta redit inſtructior à confeſſione fraterculi, quàm ab amplexu mariti.* And then he ſays, the Prieſt himſelf is more corrupted: *Quomodo enim boni, pii, ſimplices, caſti, pacifici, humiles eſſe poſſunt, qui continuo ſcelera inquirunt, flagitia examinant, crimina cantillant, ſuntq; aſperitate, immodeſtia, Rabie, cunctis intolerabiles.* Oh how often, ſaith he, doth the new married Wife return, more skill'd for Venereous poſtures, from confeſſion of the Prieſt, then from the embraces of her Husband (and then he ſays, the Prieſts themſelves grow hereby more corrupted) for how can they be good, pious, chaſt, peaceable, humble, who always make Inquiſition after wickedneſs, examine foul ſins, and ſing of filthy Crimes; whereby they become by their rudeneſs, immodeſty, and madneſs, intolerable to all Men. Who, if he hath but half his ſences, will not think it a more Lawful, Chaſt, and Holy act, if two, not prohibited by any Law of God to marry; ſhall marry one another privately in their Chamber, without a Witneſs, or a Prieſt; then for a Prieſt who is not her Husband, to be private with her in her Chamber, without a Witneſs or her Husband. The ſame *Agrippa* complaineth further, that under colour of confeſſion, *habent Sacerdotes, Monachi, Fraterculi, Moniales, & quas vocant ſorores ſpecialem lenociniorum Prærogativam; cum illis ſub Religionis prætextu liberum ſit, quocunq; pervolare & quibuſcunque, quantum & quoties ſub ſpecie viſitationis & conſolationis & confeſſionis ſecreto,*

creto, & ſine teſtibus loqui: tam piè perſonatæ ſunt illorum lenocinia. And after, *ſtuprant ſacras Virgines & hoſpitum ſuorum adulteratas uxores.* Saith he, under colour of confeſſion, the Prieſts, Monks, Friers, Nuns, and whom they call Siſters, have as it were a ſpecial Prerogative for exerciſing their Whoredomes: for they have under pretext of Religion full liberty to be where they will, with whatſoever perſons, as much and as often as they will, under a ſhew of Viſitation, Conſolation, and Confeſſion ſecretly, and without Witneſs to converſe together. So piouſly Perſonated are their Bawderies, whereby they defile the holy Virgins, and commit Adulteries with the Wives of thoſe who entertain them in their Houſes. So much for the Luſtful deſignes of thoſe, who would force all Women to Prieſts, Altars, and Temples, for marriage.

2. The next to be ſhewen is the deſign of Covetouſneſs, wherein will appear by the examples following, that they ſhew as little ſhame or modeſty, as in the former.

——*Nam quæ Reverentia legum?*
Quis metus aut pudor eſt unquam properantis Avari? Juven. Sat. 14.

Concerning which, *Herodotus* writes, That Virgins were to be brought, before they were married, to the Temple of the *Babylonian Venus*, and were there placed, Crown'd with Garlands, and ſate ſeparate from one another by little ſtrings, and never ſtir'd from thence till ſome ſtranger came in, and giving them money, took them out and lay with them: And till they had ſo done, they could not be married. Here was the Original of carrying Virgins to the Temples to be married, and the money they received for their proſtitution of themſelves, went to their Prieſts Treaſury in their *Sanctum Sanctorum*. Proſtitutions in Temples to gain the Prieſt's fees.

The *Phœnicians* were likewiſe bound to proſtitute their Daughters in the Temple of the Goddeſs *Anethis*, where Virgins were bound to proſtitute themſelves, and the gains went to the Prieſts.

The Temples of *Biſnagar* have large Revenues, which are increaſed by the Devotion of Women, who proſtitute themſelve to gain, for their Idols, which Gain goes to the Prieſts, as did the Gains of all the Whoriſh Idolatries.

And many other Temples there were, too many to be repeated; and ſcarce any Nation, who had Temples, was free from this wicked way, of making gains by the Prieſts. Thus much therefore, as a touch only, of the gains of the old *Babylonian* and *Pagan* Prieſts: but as to the new *Babyloniſh* and Popiſh, they make far greater; for by this Law, being the Root from which ſo many other prohibitory Laws of the Pope's multiply, it being almoſt endleſs to repeat all the Taxes, Exciſes, and Cuſtoms he gathers out of his Temples, Spiritual-Courts, and Stews; and to that end having;

having prohibited every little Circumſtance of marriage, which is poſſible to be made, he hath his *Gabel* ſet on it for Licenſe or Diſpenſation.

Fourth degree in Marriage prohibited to gain the Prieſt Fees.

As, 1. Pope *Calixtus* prohibits all perſons to Marry within the fourth degree of carnal conſanguinity or affinity: then to tenter that Law; further, it is prohibited all ſpiritual affinity, as Godfathers, and Godmothers, and their Children to marry within four degrees; Then to ſtretch it yet to the utmoſt, 'tis prohibited perſons under Civil Affinity: as between Guardians, Tutors and Pupils. Pope *Nicholas* the firſt prohibited the Clergy to marry, but they are forced to pay a yearly Tax to his Holineſs for their Curteſans whether they keep them or no. Pope *Sixtus* the fourth ſet up in *Rome* ſo many Stews of both Sexes, as by eſtimation contain forty Thouſand Whores and Rogues licenſed, of whom the Pope receiveth the yearly Tribute of forty Thouſand Duckats, as ſaith *Harding*, under the name of Penance-money, or Fines, chief Rent, beſides Caſualties of this Pope. Part of his Epitaph was,

Sixte, jacet tandem, deflent tua buſta Cinædi,
Scortaq; lenones, alea, vina, Venus.

Benedictions of the Prieſts to gain Fees.

Soter, Pope of *Rome* made a Law, No Marriage ſhould be without the Benediction of the Prieſt that they might increaſe and multiply; this brings in new Fees for Benedictions, though to ſeek ſuch Benedictions of a Prieſt, makes him a God and is Idolatry; if *Jacob* ſaid not without cauſe when *Rachel* asked Children of him, *Gen.* 30. 2. *Am I in God's ſtead?* yet will the Prieſt be in God's ſtead to give Benedictions on Marriages for money, and Maledictions too, if they give him none. Beſides the Benedictions of the Prieſts own perſon, there are Fees laid for him at the Shrines for the Benedictions of all his Saints: What rich Offerings and Preſents are ſent from Catholick Princes and Nobles, to our Lady of *Loretto* to have Heirs? and how many Pilgrimages are made by the meaner ſort to the Temples of ſuch and ſuch Saints with money in their Laps to obtain Children from the Prieſt or his Idols?

Pilgrimage for Children to gain the Prieſt Fees.

Times of Marriage prohibited to gain the Prieſts Fees.

The old Prohibitions of Marriage and newly ſet out in the Epiſcopal Almanack of *Advent*, *Septuageſima* and *Rogation*, being the greateſt and moſt convenient times of the year to Marry, do by ſo much yield the greater Income for Licenſes. The Prohibition of Marriage without Banes three ſeveral Sundays or Holidays, fils up the reſidue of the year with money for Licenſes: The Licenſes and Diſpenſations from his Holineſs for Papiſts to marry Proteſtants (I would he would keep thoſe at home) yield him greater ſums of money: and beſides the betraying of the Proteſtants Diſpenſations from the Arch-biſhops to the Sons of Proteſtant Miniſters on their admiſſions to a Benefice, as if they remained ſtill Baſtards according to the Canon Law. I was told by a Proteſtant Miniſter, that

Fees extorted from Proteſtant Miniſters Sons as from Baſtardy.

Ten

Ten pounds was extorted from him, on his admiſſion to but a ſmall Parſonage, by the Mr. of the Faculties, becauſe his Father was a Miniſter, who was married. Then there are great Fees received for abſolution of impure Penitents in Auricular Confeſſion, for Commutation-money, in Spiritual-Courts. It would be tedious to repeat all the ſeveral Fees which are received by the Pope, and his Eccleſiaſtical Officers, in relation to the matter of Marriages, and the offences by him made againſt it. I therefore refer the Reader to the *Taxa Camera* lately Printed by Mr. *Egan*; but theſe are ſufficient to ſhew, he makes the Land a Sea to him, perpetually bringing in new Treaſure. And his Prietts the Panders General of his unclean Myſteries, and Univerſal Receivers of his Coin: Yea he hath hence beſides, Scepters and Crowns lying at his Feet, with infinite Sums.

Commutation money.

The third Reaſon againſt Eccleſiaſtical Laws, is, They peſter the Three Kingdoms with an unneceſſary and exceſſive multitude of Laws.

There is no greater Plague to a Nation, then the exceſſive multitude of Laws; now the Eccleſiaſtical Laws comprehending in themſelves, beſides their own Synodal Provincial Canons, and Conſtitutions, the whole Civil and Canon Law; and all the rabble of Doctors opinions on the ſame; the number of which is ſo infinite, as *Swimburn* in his Epiſtle to the Reader expreſſeth in theſe words, *viz. Great and wonderful is the number of the manifold Writers of the Civil and Eccleſiaſtical Laws, and ſo huge is the multitude of their ſundry ſorts of Books, as Lectures, Councils, Tracts, Diciſions, Queſtions, Diſputations, Repetitions, Cautells, Clauſules, Common Opinions, Singulars, Contradictions, Concordances, Methods, Sums, Practicks, Tables, Reperiories, and Books of other kinds, that in my conceit it is impoſſible for any one Man to read over the hundredth part of their Works, though living an hundred years, and did intend nothing elſe.* And to the ſame purpoſe ſpeaks the Learned *Haddon*, in his Preface to the Reader, of that polite work of his, for the Reformation of the preſent *Engliſh* Eccleſiaſtical Laws, which he began firſt by Commiſſion from *H.* 8. And after finiſhed by like Commiſſion from *Edward* the ſixth, who ſpeaking of the Pope and Canon Law, hath theſe words: *In quo ipſo jure, neq; ullum tamen modum tenet illius impudentia, quin leges legibus, decreta decretis, ac iis inſuper decretalia, aliis alia atq; item alia accumulat, neq; ullam ferè ſtatuit cumulandi finem, donec tandem ſuis Clementinis, Sextinis, intra & extravagantibus Conſtitutionibus, Provincialibus, & Synodalibus Paleis, Gloſſulis, Sententiis, Capitulis, Summariis, Reſcriptis, Breviariis, Caſibus longis & brevibus, ac infinitis Rhapſodiis à deo orbem confercivit; ut* Atlas *mons, quo ſuſtineri Calum dicitur, huic ſi imponeretur oneri, vix ferendo ſufficeret.* In which

Eccleſiaſtical Laws peſter with their multitude.

his impudence holds no measure, but accumulates Laws upon Laws, Decrees upon Decrees, and upon them Decretals, others upon others, and again others upon them; nor doth he make any end of heaping one upon another, till at length he hath with his *Clementines*, *Sextines*, Intravagants, and Extravagants, Constitutions, Provincial and Synodal Palea's, Glosses, Sentences, Chapters, Summaries, Rescripts, Breviates, Cases long and short, and infinite Rhapsodies so fill'd the World with his Bag and Baggage, that if Mount *Atlas* it self, which is said to support the Heaven, were under this burden, it would scarce be able to bear it.

The end why he heaps together these infinite multitudes of Laws, the same Author well further expresseth, saying, *Tunc nec his contentus, jus fori sui haud prius definit hactenus dilatare, quod totum etiam Civilem gladium cum plena potestate in suam traduxisset possessionem; non huc spectans interim ut morum Disciplinam in melius proveheret, quod fortassit nunquam illi serio cura fuit: Sed partim ut sedis dignitatem omnibus munitam modis, constabiliret; partim ut opes undecunq; quam maximas ad explendam ipsius Avaritiam converteret, haud multum dissimili exemplo, quale de* Dionysio Syracusano *commemorat* Plutarchus; *qui cum insidioso consilio quam plurimas tulisset leges, alias super alias ingerens, tum eadem eadem astutia à populo negligi pateretur, quo cunctos hac ratione sibi obnoxios redderet: nec aliud in consilio fuisse huic Pontifici videtur in tot congerendis legum Centonibus, quàm ut plurimum Canonicis suis artibus ei ex Dispensationibus & Condemnationibus accresceret, atq; hanc puta catastrophen hujus choragi: nam ut veteres olim Comœdiæ exibant fere in nuptias, ita Pontificis omnes fere molitiones desinebant in pecunias.* Not content with this, he never left till he had so far dilated the Jurisdiction of his Court, that he had got likewise the whole Civil Sword of Plenipotentiary power into his possession, not aiming that he might thereby promote the correction of Manners, of which perhaps he never took seriously any care, but partly to establish the pride of his See with all manner of Muniments, partly to turn in from all hands excessive Riches to fill his Avarice; and not much differing from the example of *Dyonisius* the *Syracusan* mention'd by *Plutarch*, who, when by Treacherous counsel he had published very many Laws, one upon the neck of another, then again, with the same subtilty, he suffer'd them to be neglected by the people, that he might have them all obnoxious in guilt to his Lash; neither doth there any thing else appear in the design of the Pope, by heaping together so many mingle mangles of Laws, but that he might get the more into his Snares, and so have thereby the more plentiful incomes and fines, for Dispensations and Condemnations. And this take for the up-shot of this Dance; for as the old Comedies used to end in Weddings, so all the enterprises of the Pope ended in money.

The multitude of Ecclesiastical Laws is cheifly to multiply Money.

4 The

4. The ſtudy of the Popiſh Canons corrupts the choiceſt Proteſtant Wits in their Education with Popiſh principles, in which reſt the whole hopes of the gains of their profeſſion. Study of Eccleſiaſtical Laws corrupts Proteſtants.

5. They introduce divers Weights, and divers Meaſures of juſtice in the ſame people. Divers Weights and Meaſures.

6. They compel the Subjects *ad aliud Tribunal*, then *Cæſars* Judgment Seat, *ad aliud examen* then *per legem Terræ*, *ad aliud judicium* then *legale judicium parium*. *Ad aliud Tribunal, aliud Examen, alias Leges.*

7. They cauſe endleſs Circuits of Action, Delays and Coſts, Subornation and Perjury of Witneſſes, and grind the people between two Millſtones of interfering Juriſdictions, as appears in the Statute following. Circuit, Subornation, Perjury, Interfering of Courts.

The Recital of the Statute 9 H. 6. 11. *following, concerning the contention of the Heirs of* Edmund *Earl of* Kent *in Parliament, relating to a Marriage without a Prieſt and Temple.*

ITem, Whereas by a ſupplication delivered in this preſent Parliament, by the Commons of the ſame; it was declared by Margaret Dutcheſs of Clarence, Joan Dutcheſs of York, Siſters, and amongſt others Heirs to Edmund Earl of Kent, Richard Duke of York, Richard Earl of Salisbury and Alice his Wife, Ralph Earl of Weſtmorland, John Lord of Typtoſt and of Powis, and Joyce his Wife, and Henry Gray Couſins, and other of the Heirs of the ſaid Edmund late Earl, as in the ſame ſupplication is ſuppoſed, That is to ſay, the ſaid Duke, Son to Ann Daughter of Eleanor, another of the Siſters of the ſaid Edmund, the ſaid Alice Daughter to Eleanor, another Siſter of the ſaid Edmund; the ſaid Ralph Son to Elizabeth, another Siſter of the ſaid Edmund; the ſaid Joyce Daughter to the ſaid Eleanor Mother of Ann; and the ſaid Henry Gray, Son to Joan Daughter of the ſame Eleanor: That whereas Eleanor Wife to James Lord Audley pretending, calling, and affirming her ſelf Daughter and Heir to the ſaid Edmund late Earl of Kent, and begotten and born in Marriage pretenſed, had betwixt him and Conſtance late Wife of Thomas Lord Diſpenſer, whereby the ſaid ſupplication is ſuppoſed, That the ſaid,

Eleanor Wife to the said James is Bastard, and never was any Marriage made, had, nor solemnized betwixt the said Edmund and Constance, but the said Edmund (by the Ordinance, Will, and Agreement of King Henry the Fourth, Grand-Father to our Lord the King, that now is, after great, notable, and long Ambassage had, and sent, to the Duke of Millain, for a Marriage to be had betwixt the said Edmund and Luce, Sister to the said Duke of Millain) did take to Wife, and openly, and solemnly Married the said Luce at London. The said Constance then living, and being there present, not claiming the said Edmund to be her Husband, nor any other Dower of his Lands after his decease, which Marriage betwixt the said Edmund and Luce, so had, and solemnized, continued without any interruption of the said Constance, or of any other during the life of the said Edmund, as divers Lords and other credible, and notable persons of the said Realm do well remember. And how after the decease of the said Edmund, the said Luce was endowed of his Lands, as his Lawful Wife, continuing thereof her Estate peaceably all her life. Nevertheless the said Eleanor, the Wife of James, upon great subtilty, and process imagined, Privy-labour, and other means, and coloured ways, to the intent that she ought to be certified Mulier by some Ordinary, in case that Bastardy should be alledged in her person, hath brought (as it is said) in examination before certain Judges in the Spiritual-Court, not informed, nor having knowledge of the said Subtilty, Imagined Process, Privy-labour, and coloured ways, certain suborned proofs, and persons of her Assent and Covin, deposing for her, That the said Eleanor the Wife of James, was begotten within Marriage, had, and solemnized, betwixt the said Edmund and Constance. The said Dutchess, the Duke of York, and Earl of Salisbury, and Alice, Earl of Westmerland, John Lord of Typtoft, Joyce, and Henry, nor any of them thereof warned, nor knowing, untill long time after the deposition so made; whereof the said suppliants, do fear them to be grieved and impeached of their Inheritance, had by the said Edmund, by another subtilty and labour in the

Temporal

Temporal Law, to be practiſed and wrought, by the ſaid Lord Audley and Eleanor his Wife. As if they will commence any Action againſt any perſons of their own aſſent and covin, or otherwiſe, will cauſe ſuch perſons of ſuch aſſent and covin, to purſue an Action againſt them (as is ſuppoſed they intend to do) in which action by the covin and aſſent aforeſaid, Baſtardy ought to be alledged in the perſon of the ſaid Eleanor Wife of James; and thereupon by the aſſent and covin, an Iſſue is to be taken, and a Writ to be ſent to ſome Ordinary (where it pleaſe them, not advertiſed of the ſaid ſubtilty, aſſent and covin) to certifie if the ſaid Eleanor the Wife of James be Mulier or not, before which ordinary, the ſame Eleanor Wife of James, will alledge and prove her ſelf Mulier, by the ſaid depoſitions of the ſaid ſuborned Witneſſes. And then the party reputed as adverſary againſt the Lord of Audley and Eleanor his Wife, in the ſaid action, taken, or to be taken by aſſent and covin aforeſaid, will alledge no plea nor matter, nor make any defence before the Ordinary againſt the ſame Lord Audley and Eleanor his Wife, but ſuffer the matter before the ſaid Ordinary, to proceed according to the meaning of the ſaid Lord Audley, and Eleanor his Wife. So that it is very likely that the ſame Ordinary will certifie the ſaid Eleanor, the Wife of James, Mulier, which Certificate ſo had and made, ought by the Law of England to diſherit the ſaid Dutcheſs, Duke of York Earl of Salisbury, Earl of Weſtmerland, John Lord of Typtoft, Joyce, and Henry, and their Iſſue forever, of the whole Inheritance aforeſaid. Whereupon the premiſes tenderly conſidered, and to Eſchew ſuch ſubtil diſherſons, as well in the ſaid Caſe, as in other Caſes like in time to come, By the Advice and Aſſent of all the Lords Spiritual, and alſo at the ſpecial Requeſt of the ſaid Commons in this preſent Parliament aſſembled, It is Ordained and Eſtabliſhed by Authority of this Parliament, That if the ſaid Eleanor the Wife of James be certified Mulier in any Court before this time, that no manner of Certificate heretofore made for the ſaid Eleanor Wife of James, ſhall in anywiſe put to prejudice, indamage, nor conclude any perſon or perſons, but him or his

Heirs:

Heirs that was party to the Plea. And that from henceforth all Justices of or in the Courts, where any Plea is or shall be depending, taken or moved, in which Pleas so depending, taken or moved, Bastardy shall be alledged against any person party to the same Plea, and thereupon an Issue joyned, which by the Law ought to be certified by the ordinary, that the Judges, or one Judge of or in the Courts, where the said Plea is or shall be depending, taken or moved before the time, that any Writ of Certificate pass out of the same Court to the Ordinary, to certifie upon the Issue so joyned or to be joyned, shall make a Remembrance under their Seals, or his Seal, at the suit of the Demandant or Tenant, Plaintiff or Defendant in the Plea, in which the Bastardy is or shall be alledged, reciting the Issue that is joyned in the same Plea of Bastardy, and certifying to the Chancellor of the King of England for the time being, to the intent that thereupon Proclamation be made in the said Chancery by three Months, once in every Month, that all persons pretending any interest to object against the parties, which pretendeth himself to be Mulier, that they sue to the ordinary, to whom the Writ of Certificate is or shall be directed, to make their allegations and objections against the party, which pretendeth him to be Mulier, as the Law of the Holy Church requireth: And the said Chancellor having notice of the said Remembrance and Issue joyned, and being required by the said Demandant or Tenant, Plaintiff or Defendant, having the said Remembrance to make the said Proclamation as aforesaid. The same Chancellor for the time being, shall cause to be made Proclamation in the form aforesaid. And the Proclamation so made shall certifie in the Court, where the said Plea in which the Bastardy is alledged another time, shall be depending. And that the Judges of or in the Court, where the same Plea is, or shall be depending, taken or moved, before any Proclamation so to be made in the Chancery, make one time such Proclamation openly in the same Court, and also another time, when the Proclamation shall be certified by the Chancellor of England and made in the form above rehearsed: then the said Judge shall

ſhall award the ſaid Writ of Certificate to the Ordinary, to certifie upon Iſſue ſo joyned or to be joyned: and if any Writ of Certificate be made or granted, before that all the Proclamations in the form aforeſaid be made and certified, that then the ſaid Writ of Certificate, and the Certificate of the Ordinary thereupon made or to be made ſhall be void in Law, and of none effect. And if any Writ before this time be directed to any Ordinary to certifie, if the ſaid Eleanor Wife of James be Baſtard or not, and at this time not certified, if it be certified hereafter by virtue of the ſaid Writ, that the ſame Certificate of the ſaid Ordinary ſo made be void and of none effect. Raſt. pla. fo. 29. 105. 261. 280. 577. 609.

That one Circuit of Action is too much is well known, where 'tis unneceſſary, as on penal Bonds ſued at Common Law, the party injuried is repell'd from any Plea of Equity, either that he paid the Money and the Creditor refuſes to deliver up his Bond, or to give him an acquittance, or that he received an acquittance, but it was ſince burnt by fire, or he hath ſince by any other caſualty loſt it, and forces him to a coſtly, tedious, and ſometimes inextricable Suit for releif in the Chancery, whereby the remedy, unleſs for a very great Sum, becomes worſe then the diſeaſe. All which Pleas of Equity, and others of the like nature, might have been far better determin'd in the ſame Court of Common-Law, as is excellently well done in *Scotland*, by admitting thoſe Pleas of Equity in the ſame Court, and on proof of them, reſtricting the Penalty of the Bond to principal Intereſt, Coſt and Damage. But here the Birth-right of the Subject, wherein not only all his Bonds, but Lands and Goods are concern'd, is put to a tedious Circuit in the Chancery of Suite and Proclamations; and after that again, to another Circuit of Action in the Spiritual Court, and then again to a third Circuit to Common-Law, of Prohibitions, and then again to a fourth Circuit back to the Spiritual Court by a Conſultation; Circuits enough to tire any horſe, much more any honeſt man, yet ſhall he never come to the end of his journey at laſt, or if he do, he ſhall be rob'd with Theives: and as this Statute mentions, if true men fail, falſe Witneſſes ſhall be ſuborn'd againſt him, which if he had ſtaid in one Court and rid no Circuit at all, but the matter had been there tried by Twelve good men and true, at a *Niſi Prius* in his own Country, none of theſe Theives or falſe Witneſſes would have dared to appear as they preſume to do, in ſo great a Foreſt as *London*, in the Chancery, Eccleſiaſtical Courts, Affidavits, and Examiners, Officers there, a terrible oppreſſion of the Subjects, or if they did, they would be eaſily taken or diſcover'd.

There

There are four miſchiefs appear in this Statute cauſed by Eccleſiaſtical Laws, 1. Circuit of Action. 2. Endleſs delay and coſts. 3. Subornation and perjury of Witneſſes. 4. Interfering of Juriſdictions. One *in ordine ad Spiritualia*, the other *in ordine ad Temporalia*, one *in ordine ad naturalem Equitatem*, the other *in ordine ad Legem communem*; and as to the ſame, certainly a greater Calamity cannot fall on the miſerable Client, then to be made a Borderer between two Enemies-Countries; an Hare between two Dogs, a Mouſe between two Cats, and a Corne between two Milſtones.

Prieſthood changed changeth the Law.

It is ſaid, *Heb.* 7. 12. *The Prieſthood being changed, there is of neceſſity a change alſo of the Law.* Either therefore the Papiſts Preiſthood is not intended to be changed into a Proteſtant-Prieſthood, but the whole Papal power tranſlated in time of Popery, by the 25. *H.* 8. 21. from *Rome* to *Lambeth*, muſt ſo ſtand for ever, or if it be intended this Papal-Prieſthood ſhall be changed into a Proteſtant, 'tis not the changing the Perſon from *Italian* to *Engliſh*, or the place from *Tyber* to *Thames* will do it; but 'tis the changing of the Laws from Papal to Proteſtant; for Papal Laws and a Proteſtant Prieſthood are no more conſiſtent, then Fire and Water. Many more great exceptions there are againſt Eccleſiaſtical Laws, which my great haſt forceth me to pretermit.

CHAP. VI.

Marriage, Filiation, Aliment, and Succeſſion, not to be judged by ſuch Laws of England, Scotland, *or* Ireland, *as are Reliques of Popery, and contrary to the Law of God.*

Of the Law making Marriage a Sacrament.

Of the profound Popery of the common Lawyers, of Tranſubſtantiation of two perſons into one perſon, and the miſcheifs thereof.

A Note taken at Kings-Bench, of the miraculous Tranſubſtantiation of a Shoulder of Mutton between a Man and Woman.

Of the Law of Tranſubſtantiation of the Children of the Wife into the Children of the Husband, if he is within the four Seas at time of their begetting, and of no probation admitted to the contrary.

A

A further deſcant on the words of Littleton *and* Coke *concerning Tranſubſtantiation of the Children of Parents within the four Seas.*

A relation of a Souldier in the late Civil-Wars, who at his return home found two of his Wives Children tranſubſtantiated into his.

Of the Law of Intails on Marriage, and the miſcheifs of them.

Of the Barbarous Law of Illegitimation, or making Children incapable to ſucceed to the Goods of their own Parents, and the excellent Law of the Emperor Anaſtaſius *aboliſhing the ſame, and the repeal of the Emperor's Law by the Strumpet* Theodora, *and ſucceeding Popes and Biſhops.*

That the unlawful Marriage of Parents, ought not to illegitimate the Children to ſucceed to their Goods.

A further touch on Intails.

Calvin lib. 4. cap. 19. Speaks thus of the Popiſh Sacrament of Marriage, *At ne ſimpliciter Eccleſiam luderent quam longam Mendaciorum, fraudum, nequitiarum ſeriem, vim errori attexuerunt. Ut dicas nihil aliud quam abominationum latebram quæſiiſſe, dum è Matrimonio Sacramentum fecerunt: ubi enim id ſemel obtinuere, conjugalium cauſarum cognitionem ad ſe traxerunt; quippe res Spiritualis non erat profanis judicibus attrectanda. Tum leges ſanxerunt quibus Tyrannidem ſuam firmarunt, ſed partim in Deum manifeſte impias, partim in homines iniquiſſimas. Quales ſunt ut conjugia inter adoleſcentulos parentum injuſſu contracta, firma vataq; maneant. Ne inter cognatos ad Septimum uſq; gradum matrimonia ſint Legitima & quæ contracta ſint diſſolvantur; gradu vero ipſos contra gentium omnium jura &* Moſis *quoq; politiam confingunt, Ne viro qui adulteram repudiaverit, alteram inducere liceat. Ne ſpirituales cognati Matrimonio copulentur. Ne à Septuageſima ad Octavas Paſchæ & tribus Hebdomadis ante Natalem* Johannis *& ab Adventu, ad Epiphaniam, nuptia Celebrentur, & ſimiles innumeræ, quas recenſere longum fuerit.* Eorum cæno aliquando emergendum eſt, *in quo jam diutius hæſit oratio quàm animus ferebat; aliquantulum tamen mihi profeciſſe videor, quod Leoninum pellem iſtis aſinis quadam ex parte detraxi.* They thought it too little to delude the Church ſimply; but what a long chain of Deceits and Wickedneſſes have they knit on to this one Error, that you may ſay they ſought nothing elſe in their making Marriage a Sacrament, but a lurking hole for their Abominations; for as ſoon as they got that granted, they drew to themſelves the juriſdiction of all Matrimonial Cauſes, pretending forſooth that Spiritual things were not to be handled before

Sacrament of Marriage.

Sacrament of Marriage.

profane Judges. Next they fell to making of Laws to confirm their Tyranny, in part manifeſtly impious towards God, and partly moſt injuſt as to Men: Such as are theſe, That Contracts of Marriage between Minors (for this is to be intended of verbal Contracts only) ſhould be firm and valid, without aſſent of Parents; That Marriages contracted between Couſins to the Seventh degree, ſhould be unlawful, and if any were Contracted ſhould be diſſolved; and they likewiſe feigned Degrees, contrary to the Law of Nations, and Policy of *Moſes*, That it ſhould not be lawful for a Man who Divorceth his Wife for Adultery to marry another. That Spiritual Kindred ſhould not marry. That it ſhonld not be lawful to marry from *Septuageſima* to the *Octaves* of *Eaſter*, and three Weeks before the Nativity of *John Baptiſt*, and from *Advent* to *Epiphany*, and innumerable others the like, which were too long to recite; for I muſt at length get out of their filthy mire, in which my Feet have ſtuck longer then my mind could well brook, yet I hope to have got to my ſelf ſo much good, as that I have in ſome part pull'd the Lion's skin from theſe Aſſes. The making Marriage a Sacrament came from the old Pagan Prieſts of *Rome*, who perſuaded the people to draw the gains of Sacrifice and Sacraments to themſelves, that no Marriage could be happy unleſs they were Contracted by the Prieſts, with Sacrifices to the Gods, and *Sacramenta ignis & aquæ*: for which reaſon the Prieſt ſprinkled them with his Holy Water of this Sacrament, and made them touch Water and Fire, provided by the Prieſt to that purpoſe; and if any of theſe Ceremonies were omitted, whereby the Preiſt loſt his gain, then were the Marriage called *nuptiæ innuptiæ*, or in the Pope's Canonical Language *null* and *void*. That Marriage is a Sacrament, the Biſhops and common Lawyers deny in Words, but acknowledg and confeſs in their Works; for the Biſhops continue ſtill to uſurp the ſame Juriſdiction of Marriage, which the Popiſh Biſhops never pretended to, but as a Sacrament; and the Common Lawyers continue ſtill the myſtery of Tranſubſtantiation, which the old Popiſh Lawyers never did pretend to, otherwiſe then as the effect of a Sacrament.

Of the profound Popery of the Common Lawyers, in Tranſubſtantiation of two perſons into one perſon, and the miſcheifs thereof.

Tranſubſtantiation of two perſons into one perſon.

I ſhall not need to anſwer any place of Scripture making the Husband and the Wife but one Perſon: for there is not one word in the whole Scripture which affirms a Man and his Wife to be one perſon, or if it were, it muſt be a figurative and not a natural perſon. If it be objected, That they are called one Body, or one Fleſh, I ſay the ſame words are ſaid of an Harlot. 1 *Cor.* 6. 16. *Know ye not that he which is joined*

to

to an Harlot is one Body? for two (ſaith he) *ſhall be one fleſh.* Yet was never any Divine or Lawyer, I have met with, ſo abſurd as to infer from hence, That the Harlot and her Mate are one perſon, or that they are tranſubſtantiated into one another, but remain two diſtinct Subſtances as they were before; much leſs that the Harlot hath no propriety in her Goods, and that every Cuſtomer ſhe hath may rob her Shop, take all her Goods, and beat her, and ſhe have no Action or Remedy againſt him; or if ſhe catch a Chouſe in her ſnare, that ſhe and her Complices may rob, ſtrip, ſell him to the *Barbado's*, and he ſhall not be allowed to ſue her before the Magiſtrate; becauſe he and ſhe are in Scripture call'd one fleſh. In like manner may be ſaid of the foppery of Sacramental Tranſubſtantiations of the Bread into the Body, or one Body into another, or making many perſons in Society or Communion one perſon, becauſe the Scripture calls them one Body, as it is ſaid, 1 *Cor.* 10. 16. *The bread which we break, is it not the Communion of the Body of Chriſt? For we being many are one Bread, and one Body: for we are all partakers of that one Bread.* This is intended a figurative but not a natural Body; and it were very ridiculous to make alluſions, concluſions or ſimilitudes, to run on four Feet, or to ſay, Becauſe all theſe Communicants being Men and Women are by the Scripture call'd one Body, Figurative or Politick: Therefore to conclude that they are one Body natural, and one Perſon natural; And as no one body natural, or one perſon natural, can have a diſtinct propriety or a right of Action againſt it ſelf, ſo none of theſe Communicants, Men and Women, can have the ſame againſt one another. Excellent Doctrine for the one Body made of many, and Society of the *Adamites*. I ſhall not here diſpute which is the greateſt Abſurdity of Tranſubſtantiation, of Bread into Fleſh in the Maſs, or of the Fleſh of a Woman into the Fleſh of a Man in Marriage, or whether gains moſt, the Prieſt by the former, or the Lawyer by the later Cheat. But this is eaſily ſhewn, that the Communicants in the later Fantaſtick Sacrament loſe more Temporally, then in the former, though perhaps the other may Spiritually. And in Compliment to the weaker Sex, I ſhall firſt do them right in ſhewing the manifold miſcheifs thereby enſue to them.

Wife made a ſlave incapable of propriety.

Firſt, By the fiction of their being made by the Prieſt one Perſon with the Husband; Whatſoever they have is the Husbands, and what the Husband hath is his own, they loſe all the right of Propriety in their own Goods to the Husband, as perfectly, as if they had been bought by him for Slaves at a Market, though the Husband hath therefore on the Wedding-Day tranſubſtantiated into him a very fine Wife, all Silk and Satin, Velvet, Cloth of Silver, Cloth of Gold, Pearl and pretious Stones: Yet after the firſt Month, when the Moon changeth he may ſell away St. *Paul*'s Impertinent, putting the Money in his pocket, and

tranſubſtantiate her into a plain Petticoat and Waſtcoat to laſt as long as ſhe lives, and when ſhe dies bury her in Woollen, and this is all the poor Woman gets by having him before Mr. Parſon in his Temple, and making him to promiſe *with all my Worldly Goods I thee endow*, which made a wary old Gentleman, as ſaith the Woman's Lawyer, *pag.* 121. an acquaintant of his, leſt his Son-in-law, though he did not take his Daughter down in her Wedding-ſhoes, ſhould let her after go without ſtockings, and break her heart to ſee all her old feathers moult, and no new ſpring, and enforce her to take new Wings to fly to Heaven, before he was willing to ſpare her, therefore he in good earneſt bound his Son-in-law in a good ſound bond, to give his Daughter every year ſo many Gowns, Kirtles, pairs of Silk-ſtockings &c.

Her Eſtate forfeited and conſumed by her Huſband's Vices.

2. If her Husband hath mortgaged or fraudulently made away his Eſtate before marriage, if he careleſsly after marriage ſpend it on other Women, Drinking, Diceing, or other viciouſneſs, if he is Out-lawed, Attainted for Felony, Rebellion, Treaſon, or taken in Execution for Debt or Surety-ſhip, all her Lands, Goods, and Portion ſhall be taken from her, during his life, which may be longer then hers, and ſhe may wear Rags or ſtarve, if ſhe can neither work nor beg,

Rob'd of her Truſt in the Teſtator's Goods, as well as her own.

3. If ſhe have a great Eſtate, as Executrix, her Husband will change the bonds into his own name, ſell the Leaſes, change the propriety of all the Goods, and when he dies, leave her not a farthing of the Teſtator's Goods, or her own. The *Turk* is not ſo turkiſh to rob his Wife, who is a Free-woman, or to tranſubſtantiate the propriety of her Goods into his, for ſo 'tis ſaid, *Alchor. cap.* 4. *pag.* 49. *O ye that believe in God, it is not lawful for you to inherit what is your Wives by force*, (and this is not only of their own goods they brought with them, but likewiſe of the gifts of the Husband's Goods, given them by himſelf) for it is further ſaid, *ibid. Take not violently away what you have given them, unleſs they be ſurprized in manifeſt Adultery.* But amongſt Chriſtians, Harlots are in better condition then Wives; for though the Scripture, 1 *Cor.* 6. 16. ſayes in the ſame words of an Harlot as of a Wife, *Know ye not that he which is joyned to an Harlot, is one Body, for two*, ſaith he, *ſhall be one fleſh*; yet never was ſo abſurd Expoſition made, that the Harlot loſeth the propriety of her Goods and Rights to him who lies with her. It appears likewiſe by the *Roman* forms of Divorce, that the married Wives who were Free-women, notwithſtanding their marriage, retained their propriety; the words of which form were, *Res tuas tibi habeto*, the word *tuas* ſhews propriety.

Harlot loſeth no Propriety.

4. He may cheat her in all his Promiſes, or Contracts made with her before marriage, as a Man promiſed a Women who knew no Quirks in Law, if ſhe would marry him, to leave her ſo much worth after his death, and

and ſhe thereon marries him, this promiſe is extinguiſhed by the marriage, and ſhe ſhall never have benefit of it.

5. He may by this Tranſubſtantiation by many tricks in Law, cauſe others to bring actions without cauſe againſt his Wife, for his own uſe, and Arreſt, Out-law, and caſt her in Goal at his pleaſure. *A. B.* and *D.* his Wife, were bound by obligation in forty pounds, for payment of twenty, he ſuffer'd a Judgment by default, and after ſuffer'd his Wife to be taken in Execution, and put in Priſon by his aſſent, whereby the Wife was driven to procure her own friends to pay the Condemnation for her Husband, and redeem her from her *Turkiſh* Pateroon, otherwiſe ſhe might long enough have lain in *Algiers*, for he would till this was done, give no Warrant for any Writ of Error, and this was the Caſe of the good Wife at the Clock in *Alderſgate*-ſtreet, and the Judges pittied her but little, for as my Manuſcript ſays, they only ſmiled at the unkind and ſubtile device. And this was done 42 *Eliz.* which ſhews that the poor Woman married by Prieſt, though they had a Queen Regnant there, had little better juſtice done them than now. Compell'd to pay her Husband's Debts.

6. Another miſchief is by this Tranſubſtantiation, ſhe not only loſes the right of propriety as a ſlave, but the right of action as an Out-law, diſabled to ſue for any injury done her: and to expreſs the ſame more full and plainly, ſhe by this bleſſed Sacrament of marriage by a Prieſt, is made a Villain, a Pagan, an Alien, an Excommunicate, a Nun of *Lisbon*, an attainted in a *Præmunire*, a *non habens perſonam ſtandi in judicio* againſt her Husband, a perſon convicted, forfeited, and confiſcated to his own uſe, and what is worſt of all, when he hath robbed and rifled her of all ſhe hath, he may exerciſe his *Tartarian* Authority, and beat her becauſe ſhe hath no more. Made an Out-Law, a Villain, a pagan, an Alien, a Perſon forfeited, &c.

Is this the humble compliment, *with my Body I thee worſhip*, a Divinity as Idolatrous as that of the rude *Indians*, who firſt worſhip their Cotton-Idols, and if their Prayers ſucceed not, beat them? What though the *Jewiſh* Scripture ſaith, *Gen.* 3. 16. *Thy deſire ſhall be to thy Husband, and he ſhall rule over thee*; yet is this to be intended in acts Matrimonial not Magiſterial: And the Chriſtian Scripture makes you requital, and *Eph.* 5. 28. Men are commanded *to love their Wives as their own Bodies*, they muſt therefore firſt beat their own bodies, or ſuffer their Wives to beat them before they beat theirs, and you are made as great Rulers over the Husbands Bodies, as they over yours. 1 *Cor.* 7. 4. And likewiſe alſo, *The Husband hath not power over his own Body, but the Wife.* Ladies I pity you, that Scripture has been ſo ill tranſlated, and ill expounded in all your concerns of marriage; and the more, in regard you have as bad dealing from the Expoſitors of the Law as the Goſpel: for *Brook* 32 *H.* 8. *fo.* 4. ſays plainly That *if a Man beat an Out-law, a Traytor, a Pagan, his Villain, or his Wife, it is diſpuniſhable; becauſe by the Law, theſe perſons can have no actions.* Beaten by her Husband, hath no Remedy.

But

But I wiſh Ladies the next Law made for you, may ſort you with better company, or farewell to *England* to be the Paradiſe of Women.

Husband ſuffers others to abuſe and raviſh her, ſhe hath no remedy.

7. The Husband may not only be cruel to his Wife himſelf, but command others to beat and abuſe her, and ſhe hath no remedy, yea if another Raviſh her, ſhe hath no remedy to recover damage, unleſs he will aſſent to joyn with her in the action: as 8 *H.* 4 *fo.* 21. A Woman was Priſoner in the *Marſhalſy*, and made a ſuggeſtion to the Court, that the Marſhal's man had raviſh'd her in Priſon, *Gaſcoigne* commanded the Marſhal to take his Man to his cuſtody, and his ſtaff from him. And the Court told the Woman, that ſhe alone could not bring the Appeal *Sans Sons Baron*, but if her Husband would come, and they two together prove the Rape, the Raviſher ſhould be hanged, or otherwiſe not: a Woman is in a ſweet caſe, if her Man is a Wittal, and willing to make money of her.

Made a prey to all will ſeize her.

8. This encourageth vile perſons to rob the Noble and Rich of their Daughters, and makes the City of *London* ſo inſecure for young Ladies, that few great fortunes eſcape from being betrayed to perſons unworthy of them; whereas if marriage changed not the propriety, goods, and right of the Woman to the Man, but left the ſame as full in the right of the Woman, and her ſelf in as full ability and capacity to Purchaſe and Sue for her ſelf as before, ſhe and her friends would be able to take ſome courſe to preſerve her and her Eſtate, and ſuch Inſidiators be diſcouraged, where they ſaw their hopes of making a prey taken away.

9. This gives the Husband (if ſhe dies and leaves Children) power on a ſecond Marriage, to give her Goods to a Step-Mother, and caſt off her Children.

10. It gains the Husband power to get as many Women with Child as he pleaſeth, and to maintain them and their Children with the Goods of the Lawful Wife.

Tranſubſtantiation brings the ſame miſchief to the Husband as to the Wife

The Man again is as bad miſchiefed by this Tranſubſtantiation as the Woman. 1. This gives power to ſteal and eſloigne all her Husband's Subſtance, and put it into the hands of his Enemies. 2. It gains the Woman power where ſhe is not able her ſelf, to hire unknown perſons with her Husband's Goods, to rob, beat, diſſeize the Husband, and Eſloigne his Goods from him. 3. This gives her power to lay all her ſecret and unknown debts, both true and feigned by her Confederates on her Husband, and to undo him. 4. Gives her power to commit as many Treſpaſſes, either with tongue or hand, truly, or by confederacy with her Complices, making her Husband liable to pay the damage, and undo him. 5. It Gives her power to hire Adulterers with her Husband's Goods.

Whereas it is well known Men and Women of all eſtates and conditions, if they have not been before a Prieſt in a Temple, will live forty years

years together in one Houſe and dare not rob, beat, or injure one another; becauſe they have liberty to ſue for damage, which benefit this ſottiſh Sacrament of Prieſts, and Lawyers, gives not perſons tranſubſtantiated. A Law would be thought very abſurd and unjuſt, which ſhould Enact, That no Man or Woman ſhould ſue one another in the Common-wealth; what horrible wickedneſſes and villanies would be committed by the two Sexes, one againſt another; but it is more unjuſt to make ſuch a Law in Families, and more unjuſt to make ſuch a Law between Men and their Wives, then in Families: For in the Common-wealth, ſuch as are perſecuted in one City, can fly to another. In Families ſuch as like not one anothers company, and are unmarried, can be received and have protection in other Families. But Men and their Wives are chained together, and cannot avoid the injuries of one another, and have no remedy unleſs they have the ſame liberty too for injury and propriety of their own, as all other Subjects have, and not compelled to live as Out-laws, deprived of benefit of Law.

A Note taken at the King's-Bench, of the miraculous Tranſubſtantiation of a Shoulder of Mutton, between a Man and his Wife.

Tranſubſtantiation of a ſhoulder of Mutton.

Being a *Puny*, I went as others did in a morning to *Weſtminſter*, to the *King's-Bench* to hear and ſee the Forms of proceeding; where amongſt others, a Counſellor moved at the Bar in arreſt of Judgment, and for Cauſe, alledged, That the Plaintiff in his Declaration complained againſt *A.* and *B.* his Wife, that amongſt other Goods they had taken *Armum ovillum*, *Anglice* a ſhoulder of Mutton from him, and converted the ſame to the uſe of the ſaid *A.* and *B.* his Wife; the ground of the exception againſt that part of the Declaration, was, becauſe though the Wife eat her ſhare of the Mutton with the Husband, yet the ſame ought not to be ſaid to be converted to the uſe of the Wife, but only of the Husband: the *ratio rationis* was, becauſe the Wife is one perſon with the Husband, that is to ſay, tranſubſtantiated into him, and ſhe being tranſubſtantiated, the ſhoulder of Mutton which ſhe eat, muſt be likewiſe tranſubſtantiated into him; and ſo the ſhoulder of Mutton was converted wholly to his uſe, and not to the uſe of the Wife: And ſo ſome Precedents were cited for it, and others contrary; which profound piece of Popiſh Tranſubſtantiation did ſo puzzle the Court, that they would give no reſolution then, but would conſider of it, and ſettle a courſe in it; which made me, being not arrived beyond natural ſimplicity, to think them all mad, who would not cauſe the poor Man to be paid for his ſhoulder of Mutton without all that ado, but I after underſtood, that were

not

not the Forms mixt with ſo many ſuch abſurdities, there would be little work for them at the Bar.

Of the Law of Tranſubſtantiation of the Children of the Wife into the Children of the Husband, if he is within the four Seas at the time of their begetting, and no probation admitted to the contrary. And of Intails on Marriages.

Husband within the four Seas, no probation admitted, that the Children were not his. Fiction and Falſity allowed againſt Truth.

That no probation is admitted to the contrary, appears 18. E. 4. 30. where *Littleton* ſays, That if a Man marries a Woman great with Child by another Man (whether he knows it, or not knows it) and within three days after ſhe is delivered of the Child, this Child is legitimate, and the true Son of the Man that married her. And this by a Fiction in Law, and with this agrees *Coke, Com.* 244.

So here is a Father made, not by God, but by the Father of lies, and a falſe Child made Legitimate, and the true Child of a Father who never begot him, and the true Child if he begot any, before he was married without a Prieſt and Temple, made illegitimate, and a falſe, yea no Child to him who begot him, and all this held very good and ſound Divinity. If marriage of the great bellied Woman be in *facie Eccleſiæ*, a brazen *facies Eccleſiæ*, it muſt be where the Devil gives God the Fiction, the truth, the lie. And *Coke* and *Littleton* hold it too for good Law, I wonder whoſe Law they mean, and ſo ſtiff they are in it, that *Coke Com.* 244. ſaith, No proof ſhall be admitted to the contrary; ſo here 'tis not *ſtabitur præſumptione donec probetur in contrarium*, but it is the ſin of Preſumption, from which the two Fathers of the Law do not pray, as the Patriarch *David* did, *Pſal.* 19. 13. *Keep thy Servant alſo from preſumptuous Sins, let them not have Dominion over me: then ſhall I be upright, and I ſhall be innocent from the great tranſgreſſion.* One of them at leaſt, defends the ſin of Preſumption ſo high, that he ſaith, 'Tis preſumption, *Juris & de jure, & non admittitur probatio in contrarium*, and *in fictione juris ſemper eſt equitas*, a meer repugnancy and contradiction, which never came from the Law of God, nor is conſiſtent with it, as appears, *Pſal.* 96. 13. *For he cometh to judg the Earth: he ſhall Judg the World with righteouſneſs, and the People with his truth:* And not with fictions, and much leſs with lies, ſo punctually forbidden, *James* 3. 14. *Lie not againſt the truth*, and ſo ſeverely threatned, *Revel.* 21. 8. *All liars ſhall have their part in the Lake which burneth with Fire and Brimſtone*: And *Revel.* 19. 20. The falſe Prophet is to be caſt in amongſt them, who though he ſeems to be the greateſt lier in the World, yet in none greater then in this his lie of Legitimation, againſt which muſt be admitted no proof to the contrary.

The

The Law of Legitimation is further, That if a Woman Elope or run from her Husband with an Adulterer, and live in Adultery with him, and have a Child by the Adulterer, if her Husband be within the four Seas when 'twas begot, this Child ſhall be Legitimate, and ſhall be adjudged the Husband's Child, and no probation ſhall be admitted to the contrary, as appears 43. *E.* 3. 19. 7. *H.* 4 9. 44 *E.* 3. 10. 1. *H.* 6. 7. 19. *H.* 6. 17. *Coke Com.* 244.

A further deſcant on the words of Littleton *and* Coke, *concerning the tranſubſtantiation of Children of Parents within the four Seas. And of the Law of Intails.*

When a Common Lawyer hath for his Fees in a Deed of Jointure very formally ſettled Lands, Meſſuages, Houſes, Tenements and Hereditaments, &c. To have and to hold the ſaid Meſſuages, Houſes, Lands, Tenements and Hereditaments, with their and every their Appurtenances unto the ſaid *A. B.* and *C. D.* and to the Heirs of their two Bodies lawfully begotten, and the Prieſt on Banes or Licence as formally, *per verba de præſenti*, contracted the ſaid *A. B.* and *C. D.* which he calls Marriage. You ſhall next hear what Heirs the Prieſt and Lawyer confederated, to do their *Feminine* Client a good turn (by their Fictions, whereat they are both good,) one will expound by the Goſpel, and the other interpret by the Law, to be lawfully begotten of the Body of this Woman aforeſaid. Firſt, *Littleton* 18. *E. Fol.* 30. hath ſaid, If a Man marry a Woman great with Child by another Man, and within three days after ſhe is delivered of the Child, this Child he ſaith is a *Mulier*, that is to ſay Legitimate, that is to ſay lawfully begotten of the Body of the ſaid Woman, by the ſaid Man that married her. Yet he ſaith, In putting the caſe he was begot by another man, and makes a very great Fiction in the premiſes, and contradiction in the concluſion of his Caſe; but let it be what it will, *Coke Com.* 244. ſeconds him, and thinks *Littleton* hath ſpoken over conſcionably, or waſts time, to allow three days; for cannot a Woman of full and lawful Age, though ſhe ſup a Virgin, if ſhe lie with the *Law* by her ſide, that Night as well have a Child next Day by dinner, as if ſhe ſtayed three whole days; he therefore takes off two of the unnneceſſary days, and ſays plainly, reſerving to the Caſe of *Littleton* on the Margent, That if the Iſſue is born a Month or a Day after Marriage between Parties of full lawful Age, the Child is Legitimate, that is as aforeſaid, lawfully begot. And the reaſon he gives is *Quia filiatio non poteſt probari*: from which Premiſes he makes three Concluſions.

Firſt, *Ergo probatio non admittitur in contrarium.*

Secondly, *Ergo* if a Man marry a Woman got with Child by another

ther Man, and he is born but one day after the Marriage, this Child is lawfully begot by the married Man.

Thirdly, *Ergo* if a man is on or within the four Seas, that is, within the Juriſdiction of the King of *England*, and a Child in his abſence is begot by another Man on the Body of his Mirmaid he left at home, this was lawfully begot by the Man on the four Seas.

Let any Logician if he dare deny the Sequel, for here are two *Ariſtoſtles* for the Law, but he hath but one for his Logick: And there is a greater *Ariſtotle* too for the Goſpel, the Biſhop himſelf to ſecond my Lord *Coke*, hath given his Certificate in his Book of Entries, *Fol.* 181.

Biſhop's Certificate Form. *And the foreſaid Biſhop by his Letters Patents and Cloſe hath certified to the Juſtices here, That he by virtue of the foreſaid Writ to him directed, Convocating before him ſuch as of right are to be Convocated, hath diligently enquired and certified the truth of the matter, that in the Chappel of* B. *in the County of* G. *in the Dioceſs of* L. *the Sixth day of* Auguſt, Anno Dom. 1606 *Matrimony true, pure, and lawful,* Per verba de præſenti, *according to the form and rites of the Book of* Common Prayer *of the Church of* England, *between the ſaid* A. B. *and* C. D. *was Solemnized by one Mr.* A. V. *Clerk, in the preſence of* J. J. W. B. W. W. R. M. *Witneſſes in this part, by the ſaid Biſhop examin'd and ſworn, and of other Witneſſes then preſent, the ſaid Parties* A. B. *and* C. D. *his Wife being of lawful Age, and from all other Matrimonial Contracts free, clear, and clean, as the Witneſſes ſo ſworn and examined, beleive.*

This is the Form of Certificate, which carries the beſt Circumſtances and Face of a Marriage which can be put on any. But the Biſhop will give his Certificate as full, of a true pure and lawful Matrimony to *Coke*'s Woman with the Adulterous great Belly, who lays it down the next day, though no Witneſs will compurgate from other Contracts, and tranſubſtantiate as well the Child Adulterous as lawfully begot, to be Child of the Husband, yet is not this Certificate neither free from fiction and falſity contrary to the Law of God; for it is already ſhewn, That it is impoſſible to make a verbal Contract, *per verba de præſenti, præterito*, or *futuro matrimonio*, and that Matrimony cannot be before a Mother, nor a Mother before Conception of a Child, and that 'tis impoſſible to make a Ceremonial Law of Marriage, either of the Church of *England* or *Rome*, to be the Moral Law of Marriage inſtituted by God: and beſides if there were a lawful Marriage, there can be no Sequel, or *Ergo* infer'd, That the Adulterous Child of the Woman is lawfully begot, becauſe the Marriage was lawful, or ought to be Succeſſor to the Husband's Goods, becauſe born of the Wife; for there can be properly no Adultery nor Adulterous Iſſue born, but within lawful Marriage. But Logician beware the Biſhop's Certificate, and a Law of Tranſubſtantiation, alter the caſe, if thy profane Reaſon will diſpute Faith, or Epiſcopal Infallibility, in Marriage,

riage, Filiation and Succeſſion, thou wilt be Excommunicated.

The good Woman hath the ſame advantage, whether ſhe go from her Husband's Houſe or ſtay there; for if the good-man leave her at home, and march abroad himſelf a Soldiering or Merchandizing, if ſtill it be within the four Seas, and his Stock increaſe and multiply at home the while, more then abroad, he muſt not be ſo ill natur'd as not to bear the charg of his better Factreſs then himſelf. During the late Civil Wars, I was credibly informed of a Soldier who left his Wife at home with one Child, and was for divers Years ſo long out in Service, that before he returned home again, his Wife had two more to increaſe his number, at length he returned home to the Town where he dwelt, and the Neighbours as ſoon as they underſtood it, went in ſhew to welcome him home; but withal to ſee how he would like the increaſe of his Children in his abſence, where after they had ſat a while, he appeared very kind to his Wife, and very fond of his Child, which he had left at home at his departure, ſuppoſing the other to have been ſome Children of the Neighbours who were come in to play with his, 'till a while after ſeeing thoſe Children by his Fire-ſide to draw cloſer to his Wife then ſtrangers uſe to do, he asked Whoſe the Children were, the Wife anſwer'd him, Thine, whereat he was much amazed, and demanded how that could be, ſeeing he had not been at home ſo many Years. The Wife replyed, thou might'ſt have ſtayed at home then, and got them thy ſelf, if thou would'ſt; ſo there being no other Anſwer to be got, the poor man was glad to take up this new Bag and Baggage, when he thought to have reſted. For the fiction of Legitimation dared give the Truth of the Soldier the Lie to his face; yet he knew not whom to ſend a Challenge or a Duel to. In no better caſe had he been, had he in the Service of his King and Country, loſt his life in a fight at Sea, if within the four Seas what he had got with his own Blood, muſt have gone to an Adulterous Blood, at the pleaſure of his Wife, and the Certificate of the Biſhop.

A Souldier finding his Wives Children tranſubſtantiated into his.

Of the Law of Intails on Marriage, and the miſchiefs inſuing by them.

It is before ſhewen how miſchievouſly the true Heirs are diſ-inherited, and deſtroyed by Intails to two Bodies, and by *Littleton*, *Coke*, and the Biſhops fictions on the ſame, who in deſpight of Truth, Religion, Sence and Reaſon, God and Nature, will have the Adulterous iſſue of the Woman preferred before the true and lawful Children of the Man, in Succeſſion to the Man's inheritance. I ſhall likewiſe here touch ſome other few, but fatal miſchiefs, which the Chains and Fetters of Eſtates by

Law of Intails cauſeth Adulteries, and diſinherits true Heirs.

Intails to two Bodies on Marriages, whether theſe Intails are made by the Pontificial or Temporal Laws, do cauſe: for it is to be noted, that the Laws of *Theodora* and the Popes, which Enact, That no Children ſhall be capable of Succeſſion to the Father, but where the Father and Mother were contracted by a Prieſt in a Temple, is an Intailing of the Inheritance of the Man, to the Heirs of the Body of the Woman, and an excluding of the Heirs of the Man, if ſhe prove adulterous. So there cannot properly be ſaid to be any Fee-ſimple in *England*; for Fee-ſimple it ſelf, is by the Popiſh Law Intailed to the Heirs of the Body of the Woman begotten, beget them who will; and the Prieſt who would not therefore be married himſelf to a Wife (leſt ſhe ſhould put a cheat on him, and bring forth a young Lay-man) but take a Curtezan, put cunningly the Fee-ſimple cheat on the ſimple Lay-man, and his *Fils de preſtre* too, by making a Law, That none ſhould be his Heirs, unleſs begotten on the Body of ſuch Woman as he ſhould give him in a Temple: So *Littleton* in his Chapter of Fee-ſimple, and his Commentator on him, underſtood not the words, *his Heirs*; for every Fee-ſimple where a Woman is married by a Prieſt in a Temple, is to go to her Heirs of her Body begotten, and not to his, and let her have as many Heirs as ſhe will, begotten by the Adulterer, the Husband's Land ſhall go to her Heirs, but let the Husband, who is perhaps turned off by the Wife, get as many as he will by another Woman, none of thoſe ſhall be his Heirs. For which reaſon, in favour of the true and natural Children, and that the Father might have power by Act executed in his Life-time to provide for his own, eſpecially where he found his Wives Adulterous, as *Britton fol.* 122. ſaith, That the Forms of Deeds of Feoffment, were afterwards made to him, his Heirs and Aſſigns; and the word *Aſſigns* added in favour of the true and natural Children; which word *Aſſigns*, gave the Lay-men power of cutting off the Fee-ſimple Intails, being the cheat impoſed on them by the Popiſh Prieſt, and to Aſſign, Diſpoſe, and Alien the ſame, as well *Extra familiam* as *Intra*, which it ſeems before, without the word *Aſſigns* they could not do. But it was not long after, when the ſubtle Popiſh Prieſt, who knew he could Reign not but by the Woman, got a *Latin* Statute to be made, *Weſtminſter* 2 *cap.* 1. whereby he ſtruck out the word *Aſſigns*, and took clean away the power of Men to Aſſign, Alien, and Diſpoſe of their own Lands; and whereas the Intail of Fee-ſimple was only implicit, he then by expreſs words Intails it to Heirs begotten of the Body of the Woman, whereby the adulterous might ſucceed as well as, and before the Lawful, if they came firſt; which Intails likewiſe were after carried into *Scotland*; for ſo ſays *Craig. Feud. fo.* 70. *Ab* Anglis *ad nos defluxiſſe puto* And *fo.* 59. he ſaith, *Neque enim tale Feudum ad collaterales extenditur, inò quod majus eſt, ſi* Mævio *&* Semproniæ *conjugibus concedatur Feudum, & hæredibus inter ipſos procreandis, & nulli ex eo matrimonio ſuperſint; Et* Mævius *ex alia*

No Fee-ſimple in *England.*

Littleton deceived in Fee-ſimple.

The word Aſſigns gave power to cut off Fee-ſimple Intails.

conjuge

conjuge liberos ſuſceperit, hi in feudo non ſuccedant. This digreſſion hath been made, to ſhew that the Original of Intails to more Bodies than one on marriage, came from the old *Pagan* Prieſts, and now revived by Popes, to be a skreen to Adulteries and Adulterous Succeſſions, and thereby their power over the Women, without which no Sacerdotal Empire can ſubſiſt. I ſhall now proceed to ſhew the other miſchiefs inſuing from Intails, beſides the Patronage of Adulteries.

Intails a Skreen to Adulteries.

Firſt therefore, Intails on Marriages deſtroy Patriarchy, and introduce into Families Hierarchy, Gynarchy, and Pædarchy. That Patriarchy was the firſt form of Government inſtituted in Families by God and Nature, I think none will contend; the Ancient Writers and Poets are full of it, eſpecially in their Celebrations of the *Primævous* happineſs of the Golden Age, and old *Homer* begins,

Intails deſtroy Patriarchy, and introduce Hierarchy, Gynarchy, Pædarchy.

Nec fora conſiliis fervent, nec judice; tantum
Antra colunt umbroſa altis in montibus Ædes,
Quiſq; ſuas regit uxorem Natoſq;——

Courts grew not hot with Judge or Lawyer then,
But each Man without ſtrife,
In Mountain high rul'd, or in ſhady Den,
His Children, Houſe, and Wife.

Here Patriarchy was in its Throne, and the Moon and Stars all bowed to the Sun, till the Prieſts of *Priapus* and *Venus*, as before touched; and for the fore-mentioned ends of ſatisfying their own Luſt, Covetouſneſs, and Ambition firſt prohibited all Marriage except by a Prieſt in a Temple, then Intailing all Eſtates to the Heirs, Lawfully begotten of the Body of the Woman married by the Prieſt, and the Prieſt to be Judge both of the marriage, and the Lawful begetting; by this the Prieſt introduced Hierarchy, and got a greater Dominion over the Woman and the Children, than the Husband or Father, for he was not to be judge whether the Wife or Children were his, but the Prieſt: and now the Biſhop by his Certificate, and likewiſe hereby the Prieſt became Judge of the Alimony and Maintenance, and gave what he pleaſed to the Wife and her Children, in regard the Father had no power of Alienation, by reaſon of the Pontifical Intail to the Heirs of the Woman; and thereby the Hierarchy of the Prieſt, the Gynarchy of the Wife, and Pædarchy of the Sons, neceſſarily ariſing from ſuch principles, turned the poor Patriarch out of Doors, and took his Goods, when, and as they pleaſed.

2. The Intail deprives the Father of power to provide for his younger Children, but after his death the Sons are thereby left deſperate, and betake themſelves to the High-way, and the Daughters to be proſtitutes,

Intails defraud civil and natural to Debts.

to the diſhonour and deſtruction of themſelves and Families.

3. Intails as they defraud the Children of the natural debts of Aliment due from their Parents, ſo they defraud Creditors of the valuable debts due to them from their Debtors.

4. They put the Subjects to infinite trouble, vexations, and charges, for Fines, Recoveries, Licenſes of Alienation, to cut them off Bills of Diſcoveries, and hazard and danger, they being many times erroneous, and the Intails ſecret, and thereby not only all the coſt and labour loſt, but likewiſe the whole Purchaſe-money diſburſed *bona fide*, by a Lawful Purchaſor.

Intails cauſe the abuſe of private Acts of Parliament

5. They are the chief occaſions pretended of private Acts of Parliament, whereby, contrary to all juſtice, the Lawful rights of Perſons and Families are taken from them, and they undone, without Summons, or Hearing, or notice to make their claims; whereas by the juſt and honourable practice of the Kingdom of *Scotland*, they uſe to make Subſequent Acts of *Salvo jure cujuslibet*, whereby the rights of all Perſons are preſerved and reſtored, againſt all private Acts precedent, as appears by the Acts of Parliament *Car.* 1. *p.* 1. *Act* 31. *&* *p.* 2. *Act* 70. *&* *p.* 3. *Act* 42. *&* *Car* 2. *p.* 2. *Act* 29, *&* 2 *Seſſ. Car.* 2. *p.* 2. *Act* 52. *&* *Seſſ.* 3. *Car.* 2. *Act* 30. *&c.*

Acts of *Salvo jure cujuſlibet* in *Scotland.*

6. To mention a word more, how much the taking away of the Father's power of free diſpoſing, and Alienation of their Eſtates, by Intails, or any other irrevocable ſettlements on Children, brings into Families the unexperienced Pride of Pædarchy, whereby Children undo both their Parents and themſelves (by depriving of their Parents of the means of their Education in the true Religion, and in Lawful Callings and Profeſſions, the Parents having no other Bridle on them, to reſtrain them from vicious courſes, but to give them hopes and fears of increaſing or leſſening their Portions, according to their demerits) may appear, *Bodin* 25. where he ſaith, *It was obtained of* Conſtantine, *that the propriety of the Mother's Inheritance ſhould be in the Children, and the Father ſhould have only the uſu-fruct.* This was fair, that the Inheritance which came by the Mother, the Father ſhould not have power to Alien from her Children. But after it was obtained of *Theodoſius* the younger, That the propriety of all manner of Goods in general, however they came by them, ſhould be to the Sons, the uſe only to the Fathers; ſo that they could not anywiſe Alienate the propriety, nor diſpoſe thereof, though for the benefit of their Children, yea with us, he ſaith, not ſo much as the bare uſe of ſuch Goods is left to the Father, which hath ſo puffed up the hearts of Children, as that they oftentimes command their Parents, by neceſſity conſtrained to obey them, or to dye for hunger.

Children command Parents by Intails.

Of

Of the Barbarous Law of Illegitimation, or making Children incapable of Succeſſion to the Goods of their own Parents: And of the moſt excellent Law of the Emperour Anaſtaſius, *decreeing all natural Children to be Legitimate, and the repeal of the ſame, cauſed by the Strumpet* Theodora, *and the ſuteceeding Popes and Biſhops.*

The power of Sale of Legitimations of natural Children, was firſt in Pagan *Rome*, uſurped there by their Pagan Biſhops and Prieſts, and hath ſince in imitation of them, been uſurped by Chriſtian Biſhops in name, but indeed Anti-Chriſtian for the ſame filthy lucre; amongſt whom, the Biſhop of *Rome* and the Arch-Biſhop of *Canterbury* have been the Primates: But after the Emperours of *Rome* perceiving the vaſt Sums, as it were *ex lotio*, the Prerogative-Office, and the Office of Faculties heaped together, they ſwept them all into their own Exchequer, and ſuffer'd no Legitimation to be granted, unleſs they bought them of the Emperours, who received great gain thereby, till the Empire came into the hands of the vertuous *Anaſtaſius*, who ſeeing the great oppreſſions on his Subjects, by taking from them that Birth-right, which the Law of God and Nature gave, not only to them, but every Creature born into the World, to be provided for by thoſe who begot them, and this to be continued only for the profit of his Exchequer; he diſdained ſuch ſordid and impious gain, and made a moſt pious, holy, and honourable Decree, That all natural Children ſhould be Legitimate, whereby all Intails to the Bodies of Women of the Husbands Eſtates were cut off, and the miſchiefs of bringing Fictitious, Adulterous, Suppoſititious, and falſe Heirs into Families prevented. But after *Theodora*, who was a common Proſtitute, came to be married to the Emp. *Juſtinian*; and another *Theodora* as bad as ſhe, and her Daughter *Marozia*, and other ſuch Creatures came to be Strumpets to Pope *Sergius*, and other Popes, and had the chief hand in making all the Eccleſiaſtical Laws of Marriage, by which the Biſhops to this day judge; Do any expect that theſe Whores of *Babylon*, would ever bring any good Laws out of the Stews into the Church? Certainly if any judicious and indifferent perſon will take the pains to take a full view of the Canons, he will eaſily find, there is not one which is not either a Gin to take their Prey, or a Bait to cover it; and that if all the *Theodoras*, *Marozias*, *Laiſſes*, *Thaiſſes*, *Phrynes* and *Floras* were to be alive again, and ſit in a Conclave of Women, they nor all their Chaplain Prieſts, could not invent better Laws for the advancement of their Trade, or ways to deſtroy Religion, Juſtice, Vertue, Modeſty, and Chaſtity, then the Imperial, Papal, and Provincial Canons are, under the name of Eccleſiaſtical Laws: And that notwithſtanding

Theodora a common Proſtitute, the Author of the Eccleſiaſtical Laws of marriage.

ſtanding Biſhops amongſt Proteſtants ſhould be ſo long tolerated to judg arbitraries, or according to them, not only of Patrimonies and Matrimonies, Filiations and Succeſſions of the Subjects, but of Kings and Kingdoms themſelves, is horrible.

But to return now to *Theodora*, as *Bodin Fol.* 17. ſays, and appears by divers Civil Laws compared, after ſhe had got the the Maſtery of *Juſtinian* the Emperor her Husband, a blockiſh and unlearned Prince, when ſhe had made all the Laws ſhe could for the advantage of Women againſt their Husbands, ſhe got him to enact, That it ſhould be death for a man to lie with any Woman but his Wife, but if the Wife lay with other Men beſides her Husband, ſhe ſhould only be infamous, that is to ſay, ſhe ſhould have no puniſhment at all: for what honour can Infamy take from her, who by Adultery hath already loſt her honour, and is totally defamed? I forbear for brevity, to recite other of her Laws, but amongſt them all, there being not one good, except for her Trade, there cannot be a more wicked then the next: For ſhe having the command of her chous'd Husband, cauſed him to repeal the excellent Law of the Emperor *Anaſtaſius*, which made, as before mention'd, all natural Children Legitimate, that is to ſay, where their Filiation was acknowledged by the Father by Adoption, or other ſufficient Declaration by him of the ſame, whereby the old *Ignoramus* abrogated a better Law then ever he made, or was in the whole heap raked together in his name by *Theodora* and *Tribonian*, and they ſet up again the old Pontifical Intails of Husband's Lands to the Heirs of the Body of the Woman, married before a Prieſt in a Temple.

That unlawful Marriages of Parents ought not to illegitimate the Children.

Child not to be puniſh'd for the Father's ſin.

Firſt, This is contrary to the Law of God, to puniſh the ſins of the Parents on the Children.

Deſertion of Virgins after deflouring cauſed by illegitimation.

Secondly, This incourages Fathers to deflour Virgins, and when got with Child, to deſert both the Mother and the Child, as a far cheaper way, then by carrying her firſt to a Prieſt and Temple to draw a charge on himſelf of her and her Child as long as he lives; this incourages likewiſe ſuch Fathers to get Children by Inceſt, and Adultery, and Fornication, and any other way which is not lawful, rather then according to the lawful Ordinance of God; becauſe he can caſt off all theſe Women and Children by only ſaying, they are illegitimate, and take an hundred more, and ſerve them the like, and they ſhall thereby be defrauded of Succeſſion to his Goods, and ſo much as Aliment from the ſame: whereas if according to the Law of God, and the excellent Law of

Anaſtaſius

Anaſtaſius derived from the ſame, all natural Children were to be adjudged Legitimate, the Children would be provided for, by being by Law made Succeſſors to their Fathers Eſtate, as far as the ſame will reach, and Fathers would be diſcouraged to get Children unlawfully, when they ſaw they could not thereby wickedly deſert and make them illegitimate, or evade the Obligation laid on them by the Law of God and Nature, to provide for their own.

A wicked Father ought not to have a greater privilege then a good.

Thirdly, 'Tis very unjuſt, That a wicked Father ſhould have greater privilege then a good; and he who doth his Child injury, then he who is his Benefactor; for a Father who gets a Child unlawfully, doth a double injury to the Child, and rather ought to make double ſatisfaction to him, then if he got him lawfully; for he diſhonors the Child; and it is a rule in Law, *None ſhall take advantage of his own wrong*; if the Child is unlawfully begot, who did the wrong but the Father, who is therefore, if proved, to be puniſhed for the wrong, and not to take advantage of it againſt his injured Child to illegitimate and diſinherit him: nor much leſs ought the Law to do it, for no other reaſon, but becauſe the Father hath done him one wrong to do him another, but in juſtice to be the readier to make the Father who injured him to make ſatisfaction, by adjudging him right of Aliment and Succeſſion to his Eſtate, for as it is inconſiſtent with Mercy, and the higheſt Cruelty, *Afflictionem addere afflicto*; ſo is it with Juſtice, becauſe the Coat is taken from an innocent to take his Cloak alſo, or to make one injury done, the warrant to do another.

A Father not to take advantage of his own wrong.

No ſuch word as illegitimation, nor no ſuch deed in the whole Scripture.

Fourthly, Becauſe there is no foundation for this unnatural Cruelty of illegitimation, or indeed worſe then beaſtly expoſing Children to be deſtroyed, in the whole Scripture, neither is there ſuch a word as Baſtard in the whole Original, Old Teſtament or New, *Hebrew* Text, or *Septuagint*, but the ſame is falſely Tranſlated by Papiſts and Biſhops, to deceive the World, as ſhall be more fully ſhewn when I after come to the point of falſe-tranſlation of all words concerning Marriage.

Fifthly, All the examples of Scripture of unlawful Marriages yet Legitimate, and make the Children Succeſſors to their Fathers in ſuch unlawful Marriages; as *Lot* begot *Moab* and *Ammon* by Inceſt on his own Daughters, yet were *Moab* and *Ammon* Legitimate Succeſſors to their inceſtuous Father. *Judah* begot *Pharez* by Inceſt on his Daughter in Law, yet was he Legitimate Succeſſor to his inceſtuous Father; *David* got *Solomon* on an Adultereſs, with whom he had committed Adultery in her Husband's life time, and kill'd her Husband to obtain, yet did not this illegitimate *Solomon*, but he Succeeded to his Father. And according to the Law of *Anaſtaſius*, and the Law of God and Nature, whether the marriage were lawful or unlawful, yet the Law was amongſt the whole Nation of the *Iſraelites* and *Jews*, That all natural Children

Illegitimation of Children ſhews Fathers worſe then *Pagans Infidels, wild-beaſts, Monſters, Serpents.*

were Legitimate, and Succeeded to their Fathers: and the ſame Law was amongſt the *Ægyptians*, *Athenians*, *Phœnicians*, *Perſians*, *Turks*, *Tartars*, and *Mahometans*, who though Infidels have been better then ſuch counterfeit Chriſtians, who make Laws to illegitimate, and not provide for their own Children. O ye *Jews*, *Turks*, Heathens, Pagans, Infidels! O ye wild Beaſts in your Dens! O you Serpents in the Deſarts! Oh ye Monſters in the Sea, ariſe and witneſs againſt Popes and Biſhops, that your Dens, Deſarts, and raging Seas, are not ſuch *Hells* as the *Limbus puerorum* of illegitimation; Did you ever illegitimate your little Ones? did ye not labour to provide for your own? will you not with invincible Piety hazard your own lives in defence of your young? Riſe up in Judgment againſt theſe *Romiſh* wild Beaſts, Serpents, and Monſters, far more Cruel, Poiſonous, and Monſtrous then your ſelves, who for gain teach to illegitimate, ſtarve and Murther their own ſelf-begotten Babes before they can ſpeak, deploring their miſerable Fate with weeping and wailing, to be the Iſſue of ſo unnatural and cruel Parents.

Sixthly, I ſhall only add a word concerning the Original cauſe which produced this wicked effect of illegitimation of Children, which the curſed invention of Intails by the Prieſt, of the Lands of the Husband, to the Heirs of the Body of whatſoever Woman he married, or certified married to the man; whereby as is before mention'd, the Prieſt by Certificate, and the Woman by Secrecy, had power to make Succeſſors what Adulterous Heirs they pleaſed, and moſt commonly begotten by the Prieſt himſelf to the Husbands Inheritance, to cut off theſe Adulterous Intails, the moſt ancient whereof we read, were ſet up by *Cecrops* for the Owls of *Athens*; and King *Ægeus* the natural Father of the famous *Theſeus*, was the firſt who invented Adoption to cut them off, and accordingly Adopted his natural Son *Theſeus*, who thereby became his Succeſſor to his Kingdom of *Athens*, whereby the Certificate of the Biſhop was aboliſh'd, and the Supremacy of the Kingdom taken from the Prieſt to the King, and the free diſpoſing left to Fathers of their Eſtates, to ſuch Children as they acknowledged, according to the deſerving or undeſerving of the Children. After this *Solon* who is thought, though not as wiſe, yet to have been as great a lover of Women as *Solomon*, and to have been drawn by them into as great Idolatry; for *Solon* as a principal peice of his Government, intended to be ſet up by his Laws (as ſhall be after further touched) Conſecrated and Founded Prieſts, and a Temple to the Goddeſs *Venus*, and endowed the ſame with great Revenues and Privileges, and Conſecrated a multitude of *Curteſans* to exerciſe their Trade, and pray for the proſperity of *Greece* in the ſame. And did what he could to reſtrain the free liberty of Adoption by Husbands, whereby the Ladies were prejudiced in their power of inſti-

tuting

tuting Heirs to their Husbands Eſtates, in as free a manner as their Goddeſs *Venus* gave them leave. But the more *Maſculine* Princes both of *Greece* and *Rome*, vindicated their own Power of Adoption both againſt the Prieſts and the Ladies. And *Anaſtaſius* without any Formality of Adoption, cut off at a ſtroke all *Feminine* Intails, by making all natural Children as they ought to be, Legitimate, which continued till (as before mention'd) the Strumpet *Theodora* and her Biſhops got the Law of *Anaſtaſius* repealed, and Adulterous Intails again ſet up. And the like Law was in *England*, Fathers gave what they were bound by the Law of Nature to give to their natural Children, for proviſion for them, and they Succeeded to the ſame, 'till the Biſhops for the ſame ends as the Pagan and *Theodoran* Biſhops did ſet up. Here likewiſe by the Statute of *Weſtmin.* 2. *Cap.* 2. thoſe *Feminine* and Adulterous Intails have been ſince endeavour'd to be cut off by Fines and Recoveries. But the many Inconveniences of thoſe ways make the Remedy almoſt as bad as the Diſeaſe.

To conclude therefore, there is no way to prevent the expoſing and deſertion of Children by Fathers, the Adulteries of Mothers, and the murders of ſo many Infants, occaſion'd by this Diabolical Pontifical invention of Illegitimation, as the aboliſhing all Intails to more Bodies then one; and the reſtoring of that moſt excellent Law of *Anaſtaſius*, That all natural Children ſhall be Legitimate, and the Innocent Babes be no longer puniſhed and deſtroyed for the ſins of the Parents.

No remedy but aboliſhing Intails, and reſtoring the Law of *Anaſtaſius*.

Of the Law of Conſenſus non Concubitus facit Matrimonium.

Of the Pagan Goddeſs Juno, *and the Popiſh Mother of St.* Kentigern, *both got with Child without a Man.*

Of the Lady Ann *of* Britain, *married to the bare Leg of the Embaſſador of the Emperour* Maximilian.

Of the Lady Pulcheria *Siſter to* Theodoſius, *the Emperour married to* Martianus; *the Lady* Etheldred *to two Husbands*; *the Lady* Amigunda *to the Emperour* Henry *the Second*; *the Lady* Editha *to* Edward *the Confeſſor*; *and the Lady* Ann *of* Cleve *to* Henry *the Eighth, all married by Prieſts, but not by their Husbands.*

The Authors of this Law were the *Athenian Owl*, and the *Romiſh Buzzard*, making intention of the mind, and publication of the Prieſt to be a Marriage, and not carnal knowledge. And theſe two pieces of Nonſence have by their Canon Enacted, That *Conſenſus non Concubitus facit Matrimo-*

Intention of the mind.

Matrimonium, conſent not carnal knowledge makes Matrimony, if before a Prieſt in a Temple.

Owles were plenty in *Athens*, and *Cecrops* was the firſt King there, who made this Law; and the Pope, the King of *Rome*, who do excellently well agree in their Laws; for *Cecrops* was the firſt amongſt the *Greeks*, who invented Marriage ſhould be made, by the intention of the mind, and publication of the Prieſt; and Images ſhould be made, and Altars ſet up, and the Sacrifice offer'd. So is the Pope the firſt who hath made Laws amongſt the *Romaniſts*, That the intention of the mind, and publication by the Prieſt ſhould be marriage; and that Images ſhould be made, and high Altars ſet up, and the Sacrifice of the Maſs offer'd. *Cecrops* Reigned a little after *Moſes*, and the Pope Reigned a little after Chriſt, but neither of them had their Laws of Marriage, or their other Laws from *Moſes* or Chriſt, but from the old Pagan *Egyptian* Prieſts; and as they did, they made their Laws not by that Law of God, which was more Ancient then the *Egyptian*, but made their filthy Laws for filthy lucre; whereby it's eaſie to ſee in theſe Birds the *Owl* and the *Buzzard*, as well as Men: how well good Wits jump for their Gain, and pretend that Gain is Godlineſs!

Verba de præſenti. This kind of Matrimony *Gratian* makes much ado about, and diſputes the queſtion *pro* and *con*, whether ſponſion by words *de præſenti* make Matrimony? which queſtion is compoſed of perfect Non-ſence, and a lye and impoſſibility; For,

1. All promiſes are of things future, and not of preſent or paſt; and 'tis as impoſſible by their Sacrament of Marriage, to tranſubſtantiate time future into that which is preſent, as 'tis time preſent into that which is paſt.

2. It is a meer lye for any Man to ſay to a Woman, I do make you a Mother, or get you with Child, when he doth only promiſe to do the ſame, and it is as impoſſible for the Prieſts to tranſubſtantiate the verbal contract or words, into the real contract of carnal knowledge *in facie Eccleſiæ*, unleſs as in the Temple of *Venus*, he will have it actually done in his preſence, that he may be able the better to give his Certificate thereof, on a Tryal of *ne unques accouple* in loyal Matrimony. But I think it a mean condeſcenſion for any Philoſopher to diſpute with the Pedantic Sophiſtry of *Gratian* about Matrimony, as 'tis for a Divine to waſt many Arguments againſt Ttranſubſtantiation of Maſs: I ſhall only therefore turn him off to the Women, amongſt whom he will not find the moſt ſimple Good-wife, who will not be able to tell him, that an ounce of Mother-wit is better then a pound of Clergy; and that Matrimony cannot be without a Mother, nor a Mother without Conception, nor Conception without knowing a Man, unleſs by Miracle: And though he Preach never ſo impudently, That conſent and not carnal knowledge make

make Matrimony, yet that is clean contrary to the Text, *Luke* 1. 31. where *Mary* replies to the meſſage of the Angel (*Thou ſhalt conceive in thy Womb and bring forth a Son*) *How ſhall this be ſeeing I know not a Man?* And might have been witneſſed by the Angel himſelf, of whom Chriſt ſaith, *They neither marry, nor give in Marriage*, which they might do, if *verba de præſenti* will do it. But the next two ſtories will ſhew whence the Popiſh Canoniſts have this Doctrine. And the next after, will ſhew by the Teſtimony of great and vertuous Ladies, how impoſſible 'tis, and much better they deſerve to have implicit Faith given them, than to the Doctors.

Of the Pagan Goddeſs Juno, *and the Popiſh Mother of Saint* Kentigern, *both got with Child without a Man.*

Juno & the Mother of *Kentigern* both got with Child without a Man.

Juno being diſpleaſed that *Jupiter* ſhould bring out *Minerva*, the Goddeſs of Wiſdom, only by ſtriking his head without a Woman. She alſo conſulted the Goddeſs *Flora*, as good a one as her ſelf, how ſhe might bring out a Son without a Man, ſhe meant without her Husband: *Flora* bid her touch a Flower which was in the field of *Olenius*, which being done, ſhe conceived, and was her own Midwife too as well as *Jupiter*, and brought forth *Mars*, who being a Son of diſcontent, was made the God of War and Diſcord.

In like manner the Mother of St. *Kentigern*, being in great diſtreſs and fervent deſire of a Son, ſhe earneſtly prayed, and begg'd of *Jeſus* that ſhe might imitate his Virgin-mother in conception, and birth of a Child without a Man, and accordingly within a little ſhe finds her ſelf with Child, and often proteſted ſhe never knew Man; but by the Law of that Countrey where ſhe lived, ſhe muſt, becauſe ſhe was thought to be very light, be caſt head-long from the top of a high Mountain: ſhe weeps and prayes, but the Executioner doth his work, and on tryal found her far lighter then ſhe was thought, for ſhe fell down, and was neither kill'd, bruiſed, nor hurt, but was then carried on Ship-board many Leagues into the Sea, and there turned out into a ſmall Boat of Leather, deſtitute of all human help, yet with great ſpeed and ſafety ſhe arriveth at a far diſtant Port; and Landing, ſhe is delivered of a Son, that famous Saint St. *Kentigern*, who no doubt, if his Mother had but prayed, that this Son might have been born without a Mother too, as he was without Father, and been left on the Sea ſhore at the ſame place ſhe brought him forth, and the Shepheards might find him there, no doubt he had then been the ſecond Miraculous *Adam*, or *Melchiſedeck*, without Father or Mother in this latter Age of the World.

Of

Of the Lady Ann *of* Britain, *married to the bare leg of the Embaſſadour of the Emperour* Maximilian.

Ann of Britain.

Charles the Eighth the *French* King, having *Ann* the Daughter and Heir of *Francis* Duke of *Britain* in his cuſtody, ſhe being Inheritrix to that Dutchy, to Unite *Britain* to *France*, intending to marry the ſaid *Ann*, one obſtacle amongſt others alledged was, That ſhe was pre-contracted and married to *Maximilian*, by the uſual Ceremony of his Embaſſador putting his bare Leg into Bed to her for his Maſter.

1. For the Contract he held it invalid, becauſe ſhe was his Homager or Ward, and her Marriage by the Tenure belonged to him.

2. His Divines told him that the Ceremony of marrying by Proxy, by putting the bare Leg into her Bed, was only an invention of Men, and was no conſummation by the Law of the Church; and on the ſame reaſon it might as well be ſaid, that Banes, Publication and Contracting of Marriage *in facie Eccleſiæ*, and Promulgation of the ſame by the Prieſt, are inventions of Men, and but Ceremonies as well as the other, *Heyl.* 196. This was a Contract, but no Matrimony.

Of Pulcheria *Siſter to* Theodoſius *the Emperour, married to* Martianus. *Of the Lady* Etheldred *married to two Husbands. The Lady* Amigunda *married to the Emperour* Henry *the Second. The Lady* Editha *to* Edward *the Confeſſor. The Lady* Ann *of* Cleve *to* Henry *the Eighth, all married by the Prieſt, but not by their Husbands.*

Pulcheria.

Zonaras reports, That the Empire being in great danger by reaſon of Wars with the *Goths*, on conſideration that there was neceſſary to be choſen ſome able perſon to be Emperour againſt them; *Theodoſius* being dead without any Son and *Martianus*, an old experienced Captain, being taken to be the fitteſt for that purpoſe, he was choſen Emperour by the order of *Pulcheria* the Siſter of *Theodoſius*: and to give him the greater Authority, *Pulcheria* aſſented to marry him, on ſecurity given by him, that they ſhould both live Chaſt, and he ſuffer her to continue in Virginity, on which they were married, and they both faithfully obſerved their agreement of Chaſtity. This Lady made a very repugnant Vow to live a Nun, yet to marry therefore, I think her Vow doubly unlawful; firſt as to her ſelf, if young, open to a neceſſary temptation, and then as to her Husband, though an old Soldier, to a probable one. Mr. *Ricaut* *Turk. Hiſt. p.* 72. Saith, That *Ghear Han Sultan*, Daughter to *Sultan Ibrahim*, hath had already five Husbands, yet continues a Virgin.

Ghear Han Sultan.

Etheldred

Etheldred was the Daughter of *Anna* King of the *Eaſt-Angles*, ſhe was married to two Husbands, one after another, yet continued ſtill a Virgin, and at laſt became a Nun, and was Canonized a Saint, under the name of St. *Audry*. *Etheldred.*

Henry the Second, Emperour, having married *Amigunda* the Daughter of the Count Palatine of *Rhine*, they lived moſt Chaſtly, both of them obſerving voluntary Virginity, without having any carnal knowledge one with the other. It is reported, that being accuſed of Adultery, ſhe purged her ſelf by going bare-foot upon plates of fiery hot Iron, and that the Emperour was Penitent, for expoſing her to ſuch danger, being ſo Chaſt and Vertuous a Woman: ſhe was very much beholding to him, to deny to Husband her himſelf, yet quarrel ſo far as to ſuſpect her of another. *Amigunda.*

Edward the Confeſſor married *Editha* the beautiful, and indeed vertuous Daughter of Earl *Godwin*, and becauſe he had taken diſpleaſure againſt the Father, he would ſhew no kindneſs to the Daughter, he made her his Wife, but converſed not with her as a Wife, but only at Board and not at Bed, or if at Bed, no otherwiſe than *David* with *Abiſhag*; and yet was content to hear her accuſed of incontinency, whereof if ſhe were guilty, he could not be innocent: and he not only entertained ſuch thoughts of his Wife, but the like accuſation againſt his own Mother Queen *Emma*, of unchaſt familiarity with *Alwin* Biſhop of *Wincheſter*, and ſuffer'd her to be put to her purgation of fire Ordeal, by paſſing over Nine red hot Plow-ſhares bare-foot, which ſhe all eſcaped, to the aſtoniſhment of the beholders, and thereupon was adjudged Innocent, though there might be much jugling in thoſe Tryals; but whether there were ſo or not, it became not a Son to divulge the ſhame of his Mother. It ſeems he was Chaſt, but without diſcretion, and not without injury to his Wife, and impiety to his Mother, *Bak. Hiſt.* 18. *Editha.*

The ſame dealing had the Lady *Ann* of *Cleve*, who was married to *Henry* the Eighth, who lay by her ſix Months, yet left her a Virgin: And when her Ladies who attended her, ſaid they looked now every day to hear of her being with Child; to whom ſhe reply'd, They might look long enough, unleſs ſaying, How doſt thou ſweet-heart? Good-morrow ſweet-heart, and ſuch like words could make a great belly: for, ſaid ſhe, more then this never paſſed between the King and me, *Bak. Hiſt.* 288. *Ann of Cleve.*

I hope therefore none of our Proteſtant Ladies will believe this wicked Doctrine of Pope or *Turk*, That *Conſenſus non Concubitus facit Matrimonium*, if they do, we ſhall have no young Souldiers to fight againſt either.

Of

Of the Cuſtom of deſertion of Virgins after deflouring.
Of the deſertion of the Lady Lucy *by* Edward *the* Fourth, *for the Lady* Elizabeth Grey, *and the infelicity followed thereon to them, and their Children.*
Of the like deſertion by a Gentleman in Ireland, *after the birth of a Child.*
Of the ancient Form of Marriage-Contracts, Se poſt concubitum non deſerturum, *now repugnantly turned into* verba de præſenti.
Of Seditions and Civil Wars raiſed for the ſaid Crime of Deſertion.
Of the Law giving liberty of Temptation of a Minor married to an Husband, of deſertion of her Husband after carnal knowledg, and to take a richer.
A relation of the ſame practiſed in Scotland.
Of the Law tempting Women to deſert their Husbands, by giving more Alimony then the Portion.

Deſertion of the Lady *Lucy* by *Edward* the *Fourth.*

There being a Marriage in Treaty between *Edward* the *Fourth* King of *England*, and the Lady *Bona* Siſter to *Carlot* the *French* Queen; the King happen'd to fall in love with the Lady *Elizabeth Grey* the Widow of *John Grey*, who in the Civil War between the Houſe of *Lanceſter* and *York* was his Enemy, and died in Battel at St. *Albans* againſt him: the old Dutcheſs of *York* his Mother was very eager for the *French* Match, but however deſired, if that did not pleaſe him (and he would needs marry one of his own Subjects) he ſhould rather marry the Lady *Elizabeth Lucy*, whom he had a little before inticed to his Bed, which was a Marriage before God, and better then the Lady *Elizabeth Grey*, who was the relict of another Man, and his Enemy too; and thereupon ſhe inſtigated the Lady *Elizabeth Lucy* to claim a *Præcontract* of him, which Lady though ſet on by the King's Mother, and others, yet when ſhe was ſolemnly ſworn to ſpeak the truth, ſhe confeſs'd to this effect, That he never in direct expreſs words made any Promiſe or Contract to her of Marriage, but he ſpake ſo loving words unto her, that ſhe verily hoped he would have married her, and that if it had not been for ſuch kind words, ſhe would never have aſſented he ſhould have lain with her, on which pretence the flattering Biſhops, as though all Impediments were removed, by the not proving any expreſs or formal words of Contract, though the real Contract of lying with her was apparant, to pleaſe the

the King gave him their allowance, That he ſhould pleaſe his ſecond Fancy, and not to be tied to his firſt: And he accordingly married *Elizabeth Grey* according to the Eccleſiaſtical Law, *Conſenſus non Concubitus facit matrimonium.* Which Repudiation of the Lady *Lucy* was certainly as much againſt the Law of God, as the Bill of Divorce by the Law of *Moſes* was againſt the Doctrine of Chriſt, for *ab initio non fuit ſic*, that a verbal Contract of words ſhould pretend above the real Contract of carnal knowledg: And the Lady *Grey*, though it doth not appear but that ſhe was otherwiſe a very vertuous Lady, yet if ſhe knew the truth of what is before mention'd concerning the Lady *Lucy*, ſhe cannot be excuſed in taking that Husband to her ſelf, who had already given the firſt pledg, and made the cheif and real Contract of Marriage with another Woman; and far happier might ſhe have been if ſhe had aſcended a meaner but more lawful Bed; for the Earl of *Warwick* at his return home from *France*, finding by this Marriage his Embaſſage fruſtrated, the Lady *Bona* deluded, the *French* King abuſed, and himſelf made a ſtale, and the diſgraceful Inſtrument of all this; deeply reſented, and waiting his time, raiſed an Army, and by ſurprize took the King Priſoner, and preſently conveyed him to *Middleton-Caſtle* in *York-ſhire*, to remain there in ſafe cuſtody with the Biſhop of *York*, where if he had not by fair words and Money gotten his Keepers to permit him the recreation of Hunting, and thereby means to eſcape, he had lain at Mercy. And after he was eſcaped, and had gather'd ſufficient Forces, whereby he made the Earl of *Warwick* fly to the *French* King, where he was honourably received, yet the Earl returned again ſo Potent, with the *French*, joined with the great party he had in *England*, that the King was fain to fly to *Burgundy*, and the new advanced Queen to take Sanctuary at *Weſtminſter*: And though her Husband again returned, and by a hazardous Battel, wherein *Warwick* himſelf, and many other Lords were ſlain, he recover'd again his Kingdom, yet he had ſo little quiet, and leſs ſecurity, that what injoyment ſhe obtained of him, was always in fear and danger of the Field, and other Competitors of the Bed, after a man guilty, ſo more unhappy then her ſelf; and when ſhe loſt him by death, ſhe lived to ſee thoſe Remains of him he had left her, two hopeful Sons moſt cruelly Murther'd, and for the concluſion of all, her ſelf confined to the Monaſtery of *Bermondſie* in *Southwark*, and all her Goods confiſcate by her own Son in Law *Henry* the *Seventh*, yet no juſt cauſe appearing againſt her. In which Monaſtery in great penſiveneſs within few Years ſhe died.

There is a Caſe reported by Sir *Jo. Davies*, and likewiſe mention'd by the learned Dr. *Godolphin* in his *Repertorium Canonicum* 488. to have happened in *Ireland*, which was this, G.B. *Eſq; had Iſſue* C. B. *on the Body of* J.D. *whom he had never carried to Prieſt or Temple; but his Son* C.B.

Deſertion of a Woman after a Child, for a richer in *Ireland.*

was begot by natural marriage without any Pontifical Ceremony. About Sixteen Years after G. B. *having found a Lady who was richer, and of a greater Eſtate and Reputation then his firſt Woman, by whom he had his eldeſt Son* C. B. *Marries her with aſſent of her Friends, by whom he had Iſſue* E. B. *and died; after the death of* G. B. *the ſaid* C. B. *his reputed Son, and his Mother being both left alive, continued ſilent by the ſpace of nine Years, 'till they happened to have one of their Kindred Biſhop of* K. *by whom they then were encouraged by new hope to obtain their Right; who it ſeems not experienced in the Forms of Judicial Proceedings without any Libel exhibited, and not* Convocatis Convocandis, *proceeded to take the Depoſitions of many Witneſſes, to prove that the ſaid* G. B. *Twenty-nine Years before, had lawfully married and took to Wife the ſaid* J. D. *Mother of the ſaid* C. B. *And the ſaid* C. B. *was the Legitimate and lawful Son and Heir of the ſaid* G. B. *And theſe Depoſitions ſo taken, the ſaid Biſhop cauſed to be ingroſſed and reduced into the Form of a ſolemn Act, and having put his Signiture and Seal to that Inſtrument, delivered the ſame to* C. B. *who publiſh'd it, and thereupon alledged himſelf Son and Heir to the ſaid* G. B. *Hereupon an information is put into the Caſtle-Chamber in* Ireland, *againſt the Biſhop, ſuggeſting a Conſpiracy to Legitimate* C. B. *Son, and illegitimate* E. B. *the Daughter of the ſaid* G. B. *And for this Practice the ſaid Biſhop and others were Cenſured.* This Caſe and the forementiond Caſe of *Kenne*, are both contrary one to another, and both contrary to the Law of God: In *Kennes* Caſe the wrong Heir is Legitimated by the nullifying of a lawful Marriage conſummate by carnal knowledg, and birth of the right Heir, by Sentence of the Spiritual Juriſdiction, and there the Common-Law will not releive the right. Such Faith, they ſay they are bound to give to the Spiritual Sentence, whether right or wrong, whether with cauſe or without cauſe, until the Spiritual Judg revoke his own Sentence himſelf; but here where a right Heir is made Legitimate by Sentence Declaratory, of a lawful Marriage between the Father and Mother, of the right Heir, in the *Caſtle-Chamber*, the Common-Law will Legitimate the wrong Heir, and will give no faith to the Sentence of the Spiritual Judg, if that they think it wrong; ſo it ſeems the Common-Law in *Weſtminſter-Hall*, and the Common-Law in the *Caſtle-Chamber*, are very contrary one to another as to the point of giving faith concerning Marriage and Legitimation to Spiritual Juriſdiction, yet both contrary to right, and deſtructive to the lawful Heir according to the Law of God, and both give faith to Common and Canon-Law, above the Supreme Law and Legiſlator.

Amongſt the *Greeks* the manner of the Contract of Marriage was, The Parties going to the Temple before the Prieſt, the Man ſwore in the preſence of Witneſſes, *Se ſponſam poſt concubitum invitum non deſerturum*, That he would not, after he ſhould have lain with the Woman, forſake her

her without her conſent. *Arch. Att.* 156. The like form of words in the Marriage-Contracts was uſed by the ancient *Romans*, who ſhall riſe up in Judgment againſt the Popes, who unleſs Parties mumble the aforemention'd Nonſenſe of *Verba de præſenti*, give Licence for Money to deceive and deſert a Thouſand, though they have never ſo many Children by them, and to make all Women common, and to their own Prieſts to give example, being interdicted all verbal Marriage, that they may have the more liberty to abuſe the real, and to take and leave all they pleaſe, and as oft as they pleaſe. The like do the *Guiny* Prieſts who converſe with the Devil, and their form of Contract of Marriage is no doubt according as he will have it. For the Woman is there ſworn to the Man, that ſhe will not deſert; but the man ſwears not to her, nor will oblige himſelf by any verbal Contract, but is to be left as free as any Popiſh Prieſt whatſoever.

Deſertion after deflouring hath cauſed Seditions and Civil Wars.

This deflouring and deſertion was a while in faſhion amongſt the *Roman* Nobles and *Patricians*, who uſed to deflour the faireſt *Plebeian* Virgins, yet by their Law would allow this to be no Marriage, nor ſuffer a *Patrician* to marry a *Plebeian*; but only to abuſe them, till the *Plebeians* roſe againſt them and beat the *Patricians* into better manners. The like raiſed a Rebellion in *Perſia*: and *Mutius lib.* 22. *Chron. Ger.* relates, That a Rebellion aroſe amongſt the *Suiſſe Uri*, and under-*Wallenſians*, becauſe their Nobles and Governours abuſed to their Luſt all their handſome Virgins at pleaſure, and then caſt them off. Whereas by the unqueſtionable Law of God, if the greateſt Peer lie with a Beggar, whom he may lawfully marry, and get her with Child, he thereby makes her his Wife; and though before the birth of the Child ſhe expreſsly Contract, She will take hire, and the ſame ſhall not be a Marriage, or after ſhe give a releaſe; yet the Marriage is indiſſoluble; for the Act of God of giving a Child, doth confirm and eſtabliſh it, and whom the Act of God hath joined, the Act of the Parties or of all human Powers can never lawfully put aſunder. So, as is ſaid, one cauſe of the late Rebellion of the *Moors* under *Gayland* was, the abuſing and deſertion of their Virgins by their Courtiers.

If the greateſt Peer get a Beggar with Child, the Marriage is indiſſoluble.

Of the Law giving liberty of Temptation to a Minor married to an Husband, after carnal knowledg to deſert her Husband, and take a richer.

In *Scotland* while it was my fortune to be put to ſit there, as one of the Commiſſioners for Adminiſtration of Juſtice, it happen'd the Earl of *B.* deceaſed, having left two Daughters Inheritrixes of one of the greateſt Eſtates in that Kingdom, both *infra Annos nubiles*, and by Will left their

cuſtody and diſpoſing to divers Guardians, the Counteſs of *B.* his Relict, married the Earl of *W.* And after they two, the Earl being the Father in Law, and the Counteſs the Mother, diſpoſed of the eldeſt Daughter, being under the Age of Twelve, in Marriage with the Son of *G. S.* as I remember the Sheriff of *T.* being about the Age of Fourteen, being a Gentleman of a very good Family, and of the ſame name of the Family of the Earl of *B.* deceaſed, who was the Father of the Daughters, but not of equal Eſtate. This Marriage was Conſummated by the uſual publick Ceremonies, and by carnal knowledg. The Guardians hearing their Pupil married without their conſent, being very much troubled, apply'd themſelves to us, (who had then *de facto* all the Power Eccleſiaſtical and Civil, both of Biſhops and Judges, which the Sword could put on us,) to null the Marriage, they alledging their Pupil to be *infra Annos nubiles*, and likewiſe the Marriage to be made without conſent of the Guardians appointed by the Father, whereupon Summons were ſent to all Parties concern'd, to appear and anſwer the matter before us in the Court at *Edinburgh*. At the day appointed, there appear'd the new married Lady all in Silver, the Earl of *W.* the Counteſs, and other Nobles with their Train, and as near as I can remember, ſo long ſince, what was ſpoken between the Parties and the Court, were to this effect.

Earl of *W.* to the Preſident of the Court, *My Lord, we give appearance to your Summons, though I know no reaſon we ſhould be troubled hither. Your Power is unlimited, and you do what you pleaſe, but I hope you will not part Man and Wife.*

Preſi. *Complaint hath been made to us, and we ſhall only examin the truth of the matter, and do nothing but Juſtice therein, as we find the ſame to be, and as we ought to do.*

Thereupon the Earl and Counteſs and all other Parties, except the new Married Lady, were Order'd to with-draw out of the Room, and as the faſhion there is, on any Conſultation by the Court, the Doors to be cloſe ſhut. The young Lady ſeeing her Mother and all her Friends ſhut out of doors from her, and her ſelf detained Priſoner alone within the Bar to be examined by the Court, began to be ſomething appal'd, but the Preſident comforting and incouraging her, ſhe addreſs'd her ſelf to anſwer what ſhould be demanded.

Preſi. *Are you married to the young Gentleman mention'd by your Guardians?*

Lady. *Yes.*

Preſi. *Is it by your free conſent, or were you compell'd or deceived to do it?*

Lady. *It is my free conſent, and I was not compell'd or deceived.*

Preſi. *Were there any other Matches propoſed to you beſides this, and did you ſee the Men?*

Lady.

Lady. *There were others propoſed, and I ſaw them, but I liked this beſt.*

Preſi. *Why would you diſparage your ſelf to marry one ſo much beneath you, in Degree and Eſtate?*

Lady. *It was my Father's will, he having no Son, that I ſhould marry one of the name of his Family, of which name this Gentleman, I have married, is; and I married him that I might preſerve the name of my Father's Family, according to his will.*

Preſi. *Why would you, being ſo ſickly and and weakly as you appear to be, marry under the Age of Marriage, it's enough to deſtroy your health, and endanger your life?*

Lady. *I am more healthy then I was before.*

Preſi. *You are young, and your mind may change, you ſhall have other Noble young Perſons, and fit for your Marriage preſented to you, and you ſhall take your choice of them.*

To which the vertuous young Lady deſervedly incenſed, though under the Age of Twelve, replyed pretty tartly, *That ſhe ſhould be then a Whore, if ſhe ſhould change her Husband for another Man.*

Thereupon the Lady was Order'd to with draw, and the Court on Conſultation Order'd, *That ſhe ſhould be deliver'd to the cuſtody of a Governeſs in her own Houſe at* D. *who ſhould admit any other Noble Perſons to preſent themſelves unto her, as likewiſe the Husband ſhe had already married, but no otherwiſe then openly, in the preſence and ſight of the Governeſs; and if the Lady liked to make choice before ſhe came to the Age of Twelve, of any other to be Husband, ſhe ſhould have free liberty to do the ſame, if not then, her preſent choice ſhould ſtand.*

This Sentence was right, if you admit the Common-Law, that great Popiſh Idol, which is worſhip'd through the three Kingdoms, to be the Law of God, but otherwiſe 'twas an unlawful thing, to put a new married Wife who had lain with her Husband, and for ought the Court knew might be with Child by him, to put her on the Temptation of changing her Husband, to take a richer, and thereby leave it to the wicked Canon-Law, which would have null'd her Marriage, to have illegitimated her Child, only for that deſertion of her Husband, to which that wicked Law tempted her, but ſhe was more Noble then to entertain ſuch vile thoughts, and continued conſtant to her Husband till her death.

Of

Of the Law tempting Women to deſert their Husbands, by giving more Alimony then the Intereſt of the Portion.

Another great miſcheif is in the Eccleſiaſtical Laws, and thoſe Laws which follow them, they will on Divorce under the name of Alimony, give the Woman more then the Intereſt of her Portion amounts to, which incourages all Women to ſeek Divorces, whereas the form of Divorce amongſt the *Romans* was, *Res tuas tibi habeto*, and ſhe was not to have more then ſhe brought with her, and the ſame is the Law of the *Jews*, and all other Nations, except ſuch as live under Popiſh Eccleſiaſtical Laws. And the injuſtice of our Eccleſiaſtical Laws to the contrary, is not one of the leaſt cauſes, why Divorce and Separations are of late grown ſo frequent, becauſe Women know they ſhall gain by the Divorce, and rob their Husbands of more then ever they brought them.

Of the Law of Divorcing after Procreation of a Child, for pre-contract, or pre copulation without pre-procreation.

Of the Law prohibiting liberty of private Marriage without publick Witneſſes.

Of the Law giving the Juriſdiction of the ſecret cauſes of Divorce between Parents, and ſecret uncleanneſs of Children in their Parents Houſes, to publick Tribunals.

Of the Law compelling perſons married, though mortal Enemies, to Co-habitation.

Of the Law of Divorce à Menſa & Thoro.

Of the Canon compelling the parties on Divorce for Adultery, to give Bonds and Sureties, not to marry again during each others life.

Of the cuſtom of Proteſtants marrying with Papiſts.

Edward the Fourth was, as is alledged, firſt verbally contracted to *Eleanor* Daughter to *John Talbot* Earl of *Shrewsbury*, married after to Sir *Thomas Butler* Baron of *Sudley*; after this verbal contract, he married *Elizabeth* the Widow of Sir *John Gray*, ſhe lived his Wife Eighteen Years and Eleven Months, and he had iſſue by her Three Sons and Seven Daughters: *Elizabeth* his eldeſt Daughter was firſt promiſed in marriage to *Charles* Dauphin of *France*, but married after to King *Henry* the Seventh; *Edward* the Fourth being dead, leaving his two Sons young, in

in the cuſtody of his Brother *Richard* the Third; they were after murdered by him, to make his own way to the Crown: but firſt in preparation thereto, Dr. *Shaw* in a Sermon by him Preached at *Paul's*-Croſs, took for his Text, *Spuria vitulamina non agent altas radices*: And to make ſhort work, they were after by Act of Parliament Proclaimed Baſtards, and not inheritable to the Crown, on no other Allegation made but the pre-contracts before mention'd with *Eleanor Butler*, as is recorded in the Parliament Roll.

Buchanan rerum Scoticarum lib. 11. 652. relates, That Earl *Bothwel* aſpiring to obtain the marriage of *Mary* Queen of *Scots*, compelled his Wife to accuſe him of pre-copulation with another Woman, before he married his Wife. Gordonia Bothuelii *uxor cogitur in duplici foro litem de Divortio intendere; apud judices Regios accuſat uxor maritum adulterii, qua una juſta apud eos erat divortii cauſa, apud judices Papanos lege vetitos, tamen ab Archiepiſcopo ſani* Andreæ *ad hanc litem cognoſcendam, litem dare accuſatur idem ante Matrimonium, cùm propinqua uxoris ſtupri conſuetudinem habuiſſe, nulla in Divortio faciendo nec in teſtibus nec in judicibus fit mora; intra enim decimum diem lis ſuſcepta, diſceptata & dijudicata eſt.* After, he ſaith, one thing thought neceſſary was, *ut conſueta ſervarentur Ceremoniæ, ut videlicet publice in conventu civium tribus diebus Dominicis nuptiæ futuræ inter* Jacobum Heburnum, *&* Mariam Stuartam *denuntiarentur, ut ſi quis quid vitii aut impedimenti ſciret quo minus legitimè coirent, rem ad Eccleſiam deferrent.* And after, he ſaith, *Cùm de nuptiis in Eccleſia denunciandis ageretur, & lector, cujus id munus erat conſtanter recuſare, collecti Diaconi, & ſeniores cùm reluctari non auderent, jubent Eccleſiaſtem nuptias futuras de more edicere & is quidem hactenus paruit, ut ſe vitium quidem ſcire profiteretur, ac paratum ſeu Reginæ ſeu* Bothuelio *eum vellent judicare, is eum in arcem accerſitus, veniſſet. Regina eum ad* Bothuelium *remiſit, qui quanquam nec blanditiis, nec minis Eccleſiaſtem de propoſito deduceret, nec rem diſputationi committere auderet, tamen nuptias apparat: unus* Orcadum *Epiſcopus eſt inventus, qui gratiam aulicam veritati præferret, ceteris reclamantibus, cauſaſq; proferentibus, cur Legitimæ non eſſent nuptiæ cum eo, qui duas uxores ad hue vivas haberet, tertiam, ipſe ſuum nuper faſtus adulterium, demiſiſſet: ita indignantibus omnibus bonis, vulgo etiam execrante, propinquis per literas improbantibus, inchoatus, & publicis Ceremoniis ſimulatis etiam factas deteſtantibus, tamen Matrimonium celebratur.* Which fore-mention'd pre-contract alledged againſt *Edward* the Fourth, was no more juſt cauſe to Illegitimate his Children, then it was to Murder them, nor was his pre-copulation with another Woman, confeſs'd by Earl *Bothwel*, any more juſt cauſe to Divorce his Wife, then it was to aſpire to the Kingdom. 32 *H.* 8. *cap.* 38. takes notice of the great miſchiefs inſuing by diſſolving by pre-contract Marriage, conſummate by bodily knowledge, and fruit of Children or Child, which Statute follows in theſe words.

Husband divorces the Wife for cauſe of preco-pulation committed by himſelf.

Whereas

32 H. 8. cap. 38. Of pre-contract.

WHereas heretofore the usurped power of the Bishop of Rome, hath always entangled and troubled the meer Jurisdiction, and regal power of this Realm of England, and also unquieted much the Subjects of the same, by his usurped power in them, as by making that unlawful which by God's Word is Lawful, both in Marriage and other things, as hereafter shall appear more at length; and till now of late in our Soveraign Lord's time, which is otherwise by learning taught, than his predecessors in time past long time have been, hath so continued the same, whereof yet some sparks be left, which hereafter might kindle a greater fire, and so remaining, his power not to seem utterly extinct. Therefore it is thought most convenient to the King's Highness, his Lords Spiritual and Temporal, with the Commons of this Realm, assembled in this present Parliament, that two things, especially for this time, be with diligence provided for, whereby many inconveniences have ensued, and many more mought ensue and follow: As where heretofore divers and many Persons, after long continuance together in Matrimony, without any allegation of either of the parties, or any other at their Marriage, why the same Matrimony should not be good, just, and lawful, and after the same Matrimony Solemnized, and Consummate by carnal knowledge, and also sometimes fruit of Children ensued of the same Marriage, upon pretence of former Contract made, and not Consummate by carnal Copulation (for proof whereof, two Witnesses by that Law were only required) been divorced and separate, contrary to God's Law, and so the true Matrimony both so Solemnized in the face of the Church, and Consummate with bodily knowledge, and confirmed also with fruit of Children had between them, clearly frustrate and dissolved: Further also, by reason of other Prohibitions then God's Law admitteth, for their lucre by that Court invented; the dispensation whereof, they always reserved to themselves, as in kindred or affinity between Cousingermans, and so to the fourth degree, carnal knowledge of any of the same kin, or affinity before in such outward de-

grees,

graes, which elſe were lawful, and be not prohibited by God's Law, and becauſe they would get money by it, kæp a reputation of their uſurped Juriſdiction; whereby not only much diſcord betwæn lawful married perſons, hath (contrary to God's ordinance) ariſen much debate and ſuits at Law, with wrongful veration, and great damage of the Innocent party hath been procured, and many juſt Marriages brought in doubt, and danger of undoing, and alſo many times undone, and lawful Heirs diſherited; whereof there had never elſe, but for his vain-glorious uſurpation, bæn moved any ſuch queſtion, ſince freedom in them was given us by God's Law, which ought to be moſt ſure and certain. But that notwithſtanding marriages have bæn brought into ſuch an uncertainty thereby, that no marriage could be ſurely knit and bounden, but it ſhould lye in either of the parties power, and arbiter, caſting away the fear of God, by means and compaſſes to prove a pre-contract, a kindred, and alliance, or a carnal knowledge to defeat the ſame, and ſo under the pretence of theſe allegations afore rehearſed, to live all the days of their lives in deteſtable adultery, to the utter deſtruction of their own Souls, and provocation of the terrible wrath of God, upon the places where ſuch abominations were uſed and ſuffer'd.

Be it therefore Enacted by the King our Soveraign Lord, the Lords Spiritual and Temporal, and the Commons in this preſent Parliament aſſembled, and by the Authority of the ſame, That from the firſt day of the Month July next coming, in the year of our Lord God 1540. All and every ſuch Marriages, as within this Church of England ſhall be Contracted betwæn lawful Perſons (as by this Act we declare all Perſons to be lawful, that be not prohibited by God's Law to marry) ſuch Marriages being Contract and Solemnized in the face of the Church, and Conſummate with Bodily knowledge, or fruit of Children, or Child, being had therein, betwæn the parties ſo married, ſhall be by Authority of this preſent Parliament aforeſaid, Deæmed, Judged, and taken to be Lawful, Good, Juſt, and Indiſſolvable, notwithſtanding any pre-contract, or pre-contracts of Matrimony, not

Conſummate with Bodily knowledge, which either of the parties ſo married, or both ſhall have made with any other perſon or perſons, before the time of Contracting that Marriage which is Solemnized and Conſummate, or whereof ſuch fruit is enſued or may enſue as afore; and notwithſtanding any Diſpenſation, Preſcription, Law, or other thing granted or confirmed by Act or otherwiſe. And that no reſervation, or prohibition (God's Law except) ſhall trouble or impeach any Marriage without the Levitical degrees. And that no perſon of what eſtate, degree, or condition ſoever he or ſhe be, ſhall after the firſt day of the Month of July aforeſaid, be admitted to any of the Spiritual Courts within this the King's Realm, or any his Graces other Lands and Dominions, to any Proceſs, or Plea, or Allegation contrary to this aforeſaid Act.

1. Here it appears what a neceſſary ſtroke this Act gave, againſt the uſurped power of Eccleſiaſtical Laws, and Juriſdiction, in this and other points of Marriage, forbidding any Spiritual Courts within this Realm, or any his other Lands and Dominions, to admit any Proceſs, Plea, or Allegation, contrary to this Act. And although hereby, one of the heads of Eccleſiaſtical Juriſdiction was, as is ſaid of the Beaſts, *Rev.* 13. 3. as it were *wounded to death*; yet ſo great was the ſubtilty of the Serpent, that the Eccleſiaſtics ſoon after, by abuſing the minority of that moſt pious, though young King, *Edward* the Sixth, got all what the wiſdom and courage of his Father had Enacted againſt them, repealed by the Son, 2 & 3 *Ed. 6. cap.* 23. And thinking themſelves therein not ſufficiently ſecure, they again procured the ſame to be repealed by 1 *Eliz.* 1. In which repeals, I can ſee nothing but a Papiſt Plot againſt them both, to revive thoſe Eccleſiaſtical Laws by their own Authority againſt themſelves, which might have yielded moſt dangerous pretences againſt their own Legitimations and Marriages, and Iſſue, if they had happen'd to have had any: For certainly no Marriage or Iſſue can be ſecure or certain, if any fraudulent perſon may ſecretly pre-contract, or pre-copulate with any vile perſon, and take Bonds of him, or her, to releaſe the ſame upon requeſt, and then marry another perſon, Ignorant and Innocent, and have Children procreate between them, and then cauſe the party who had the pre-contract or pre-copulation, to ſue and obtain a Divorce againſt the Innocent perſon to be Divorced, and Children Baſtardized, and Diſinherited; and then to give a releaſe to the party conſpiring in the fraud. How is it poſſible to avoid this wickedneſs, if pre-contract or pre-copulation, ſhould

Edward the *Sixth* abuſed by Papiſts in his Minority, to repeal his Father's Act of Precontracts.

ſhould be allowed a ſufficient cauſe to diſſolve Marriage, Conſummate by the Birth of a Child? And how is it poſſible propriety to be, if a diſtinction be not kept between it and contract, and between obligation and poſſeſſion, according to the old Rule of Law, *Rem Domino vel non Domino vendente duobus, in jure eſt potior, traditione prior*? And the Rule of the Civil Law, and fundamental of all Nations, who have propriety, *Obligatio non impedit tranſlationem Dominii, ſed tranſlatio Dominii præcedens impedit obligationem. l. ſi quidem. 1. C. de donat. inter virum.* Notwithſtanding all which Reaſons preceding, and likewiſe thoſe in the mention'd Act of *H.* 8. The Eccleſiaſtics, though ſtraining their Wits, and Eloquence to the higheſt, in the Act of repeal by *Ed. 6.* yet cannot alledge the leaſt reaſon, except only this, That if pre-contract ſhould not diſſolve Marriage, the parties might part from one another at the Church door, and then the Wedding Dinner would be ſpoiled; which ſurely may be ſufficiently and over ſatisfied by recompence in value, were it a Half-Crown Ordinary: But a loſt Virginity to an Innocent Woman, who was married *bona fide*, and knew nothing of this pre-contract; and her Child can never be repaired, if the Marriage be diſſolved.

——— *Nulla reparabilis Arte*
Læſa pudicitia eſt, deperit illa ſemel. Propert.

The Act of Repeal of the ſaid moſt excellent Law of *Henry* the Eighth againſt pre-contracts follows. 2 & 3 *Ed. 6. cap.* 23.

2 & 3 *Ed.* 6. *cap.* 23.

Whereas in the 32 year of the Reign of the late King of famous memory, King Henry the Eighth, Becauſe that many inconveniences had chanced in this Realm, by breaking and diſſolving of good and lawful Marriages, yea whereupon alſo ſometimes Iſſue and Children had followed, under the colour and pretence of a former Contract made with another, the which Contract divers times was but very ſlenderly proved, and often but ſurmiſed, by the malice of the party, who deſired to be diſſolved from the Marriage which they liked not, and to be coupled with another. There was an Act made, That all, and every ſuch Marriages as within the Church of England ſhould be Contracted and Solemnized in the face of the Church, and Conſummate with Bodily knowledge, or fruit of Children or Child, being had between the parties ſo married, ſhould be by Authority of the

said Parliament, Deemed, Judged, and taken to be Lawful, Good, Just, and Indissolvable, notwithstanding any pre-contract, or pre-contracts of Matrimony, not Consummate with Bodily knowledge, which either of the Persons so married, or both, had made with any other Person or Persons, before the time of Contracting of that Marriage, which is Solemnized or Consummated, or whereof such fruit is ensued, or may ensue, as by the same Act more plainly may appear. Since the time of which Act, although the same was Godly meant, the unrulines of Men hath ungodlily abused the same, and divers inconveniences (intolerable in manner to Christian Ears and Eyes) followed thereupon, Women and Men breaking their own promises, and faiths, made by the one unto the other; so set upon sensuality and pleasure, that if after the Contract of Matrimony, they might have whom they more favoured and desired, they could be contented by lightnes of their nature, to over-turn all that they had done afore, and not afraid in manner, even from the very Church-door, and Marriage Feast, the Man to take another Spouse, and the Spouse to take another Husband, more for Bodily lust and carnal knowledge, then for surety of faith & truth, or having God in their good remembrance, contemning many times also the Commandment of the Ecclesiastical Judge, forbidding the parties, having made the Contract, to attempt or do any thing in prejudice of the same. Be it therefore Enacted by the King's Highnes, The Lords Spiritual, Temporal, and the Commons in this present Parliament assembled, That as concerning pre-contracts, the said former Statute shall from the first day of May next coming, cease, be repealed, and of no force or effect, and be reduced to the estate and order of the King's Ecclesiastical Laws of this Realm, which immediately before the making of the said Statute, in this case were used in this Realm: So that from the said first day of May, when any cause or contract of Marriage is pretended to have been made; it shall be lawful to the King's Ecclesiastical Judge of that place, to hear and examine the said Cause: And (having the said Contract sufficiently and lawfully proved before him) to give sentence for

for Matrimony, commanding Solemnization, Co-habitation, Conſummation, and Tractation, as it becometh Man and Wife to have, with inflicting all ſuch pains upon the diſobedients, and diſturbers thereof, as in times paſt before the ſaid Statute, the King's Eccleſiaſtical Judges, by the King's Eccleſiaſtical Laws ought, and might have done, if the ſaid Statute had never been made: Any Clauſe, Article, or Sentence in the ſaid Statute to the contrary in any wiſe notwithſtanding.

Of the Law making private Marriage or carnal knowledge between perſons not prohibited by the Law of God to marry, Fornication.

Private Marriage, or carnal knowledge is of two ſorts, the one without publick Witneſs, the other without any Witneſs at all, and both by the Popiſh Laws (becauſe if permitted, they would ſpoil their gains) are prohibited, and called clandeſtine Marriages. The publick Witneſſes are the Prieſt or Magiſtrate; private Witneſſes are any other, not appointed by Law. The Law of *England* makes all private Marriage, and carnal knowledge, without publick Witneſs, Fornication. The Law of *Scotland* in ſome caſes relieves, though there be a defect and no publick Witneſs of the Marriage by the Prieſt, as appears in the before cited Author *Craig. Feud.* 269. If there appear private Witneſſes of Men or Inſtruments; but in all caſes likewiſe, where there are neither publick or private Witneſſes, they leave it to be Fornication. That which I here affirm againſt both, is:

Marriage without Witneſs not clandeſtine.

1. That carnal knowledge between parties not prohibited by the Law of God to marry, is not Fornication, nor any other Crime, though in the higheſt ſecrecy, and without any Teſtimony of Men, or Inſtruments whatſoever.

Marriage without Witneſs not Fornication.

2. That privacy of Marriage being not prohibited, nor publication commanded by God; all parties ought to have liberty of Conſcience, to uſe the one or the other, according as ſuits beſt with their occaſions.

As to the firſt, there are theſe reaſons, That private Marriage without Witneſs is not Fornication, nor any other Crime.

1. There is no Law of God prohibiting private Marriage without Witneſs: *Where there is therefore no Law, there is no tranſgreſſion.* Rom. 4. 15.

2. It is before ſhewen, That for any human Law to prohibit Marriage or Meat, where not prohibited by the Law of God, the ſame came from the

the Devil. 1 *Tim. cap.* 4. *v.* 1, 2, 3. And that therefore the Law of the Pope, and Council of *Trent*, which *nulls* all Marriages, except made before a Prieſt in a Temple, and two Witneſſes; came from the Devil and the Prieſts of *Priapus* and *Venus*, for filthy lucre to the Prieſts.

3. *Iſa.* 45. 7. It is ſaid, *I create evil.* And *Iſa* 5. 20. It is ſaid, *Wo unto them that call good evil, and evil good; That put darkneſs for light, and light for darkneſs*: Here is therefore a curſe pronounced againſt thoſe, who, if God created not marriage without Witneſſes, evil, of their own heads call it evil; and where God created it to be in darkneſs, and natural modeſty, of their own heads will have it by Torch-light, and the whole Pariſh of Witneſſes.

4. All Fornication is *Polyandry* and *Confuſio ſeminum*, whereby the Child cannot know the Father, nor the Father the Child, but here is no ſuch thing; it is impoſſible therefore to be Fornication.

As to the ſecond Point which I am to maintain, That privacy of Marriage without Witneſſes, being not prohibited by the Law of God, nor publication commanded by the ſame; no human power ought to preſume to prohibit what Marriage God hath not prohibited, but all perſons ought to be left liberty of Conſcience, to marry publickly or privately, with or without Witneſſes, as it ſuits beſt with their conveniences and occaſions, as is the uſe and practice in all other civil Contracts, which men do with or without Witneſſes, as they think beſt, and were never accuſed of ſin, if they had no Witneſſes whereon to bring their Action; only that Party is juſtly charged with ſin, who wilfully breaks his Contracts, becauſe there are no Witneſſes but God to prove it againſt him.

Liberty of Conſcience to marry with or without Witneſſes.

Againſt theſe Poſitions I ſhall firſt anſwer the Objections, and then ſhew further Reaſons to confirm the ſame.

Object. 1. First, It is Objected, *That without the publick Teſtimony of the Marriage by the Prieſt and Biſhop, the Woman is in danger of deſertion by the Man after he hath devirginated, and got her with Child, whereas ſhe having the ſaid publick Teſtimony of the Biſhop, if the Man take another Woman to Church and marry her, by the Law he ſhall be hanged.*

Anſwer. To which is Anſwer'd, That this Law or Penalty doth no way prevent the deſertion; for though the Law which *Theodora* got her Husband *Juſtinian* to make, That it ſhould be death for the Husband to lie with any other Woman but his Wife, might perhaps have ſomething reſtrained the Man, yet this Law that the Husband ſhall marry no other Woman in Church, ſignifies nothing of reſtraining him from lying with an hundred elſewhere.

Object. 2. In like manner it is Objected, *That the Wife, if there were no publick Witneſſes, might deſert her Husband for another Man; whereas now if ſhe go to Church with another man, and is married to him, while her Husband is alive, ſhe ſhall be hanged.*

To

To which is Anſwer'd, That though the Law of *Moſes*, *Levit.* 20. 10. which makes Adultery in a Wife Death, might perhaps ſomething have reſtrained the Woman, the preſent Law reſtrains her no more then it doth the man. Anſwer.

The Third Objection is, *If Banes and Marriage were not in the preſence of publick Witneſſes, none who had right to a Woman could know when or how to make his claim.* Object. 3.

To which is Anſwer'd, Firſt, This preſerves not the Claymant's right, nor prevents the other man's lying with the Woman, if ſhe hath a mind to another. Which it appears ſhe hath, otherwiſe ſhe would not have band her ſelf openly with him. Anſwer.

Secondly, If he hath a pre-promiſe or pre-contract, he ought not to recover the Woman *in Specie* againſt her will, but only damage for breach of promiſe, as to which the Banes make it neither better nor worſe.

Thirdly, Admit the man who is the Claymant of the Woman, hath not only had pre-promiſe, pre-contract, but pre-copulation of the Woman before the other man, who is publickly band with her, yet to what purpoſe is a claim made of a Woman, who is now became an Adultereſs by banning her ſelf with another man, and ought not by the Law of God to be claimed by the firſt man; for by retaking an Adultereſs the Husband becomes a Pandor to the Wife, a deſtroyer of the Adultererous Child, by depriving him of the natural Father, and a deſtroyer of his own Children, by bringing in Adulterous Heirs amongſt them, which is ſo far abhor'd by the Scripture, that in caſe of Divorce, though the Woman is innocent, yet it is ſaid *Deut.* 24. 1, 2, 3, 4. accordiug to the Original, *When a man hath taken a Woman, and been a Man unto her, and it come to paſs that ſhe find no favour in his eyes, becauſe he hath found ſome uncleanneſs in her: then let him write her a Bill of Divorcement, and give it in her hand, and ſend her out of his Houſe. And when ſhe is departed out of his Houſe, ſhe may go and be another man's Woman. And if the latter man hate her, and write her a Bill of Divorcement, and give it in her hand, and ſendeth her out of his Houſe: or if the latter man die, which took her to be his Woman, her former man which ſent her away, may not take her again to be his Woman, after ſhe is defiled: for that is abomination before the Lord, and thou ſhalt not cauſe the Land to ſin, which the Lord thy God giveth thee for an inheritance.* If therefore a Woman innocent put away, is not to be received again, much leſs is a Woman guilty of running away with another man to be claimed again *in Specie*, but there is a more juſt remedy, if the Party is thereby damaged, to Sue the Woman for breach of her Contract, and the Adulterer for taking her away, for Damages.

Another

Object. 4. Another Objection is made, *That without Witneſſes of the Marriage, if the right of Succeſſions to Goods or Lands come in queſtion, the Biſhop can make no Certificate of Filiation of the Child who is to Succeed, nor can the Common-Law, Judges or Juries judg of the matter.*

Anſwer. To which is Anſwer'd, Firſt, That lawful Marriage is impoſſible to be without carnal knowledg, and ſo is likewiſe Filiation, both which are impoſſible to be witneſſed by any but the Parents: As to carnal knowledg, that which makes Marriage the ſame, may be defined to be a Seminal Conjunction of Man and Woman in the natural Act of Generation, mention'd *Levit.* 15. 18. *Cum vir concubuerit, cum ea Semine concubitus*, which if between Perſons prohibited, is an unlawful, if not prohibited, is a lawful Marriage. The *Jews* had three ſorts of Conjunctions between Man and Woman, which they called Marriages. 1. *Coemptione.* 2. *Copulatione.* 3. *Inſtrumentis.* That which was *Copulatione*, was by their filthy Cuſtom to be done before two Witneſſes; but the Witneſſes here in queſtion, are not of the Copulation, but of matters impertinent and evidence, which tends not to the iſſue, and they are only to Teſtifie that *A.* and *B.* went to Church together, and there ſaid words *de præſenti*, and the Prieſt pronounced them Man and Wife, as though the Child was ſtraight begot by the Tongues of the Parties, and the Prieſt in the Sacrament of Marriage, as it is in that of the tranſubſtantiation, and thereon the Biſhop gives his *Non ſequitur* Sentence, that here was a Marriage, which includes carnal knowledg, though 'tis not ſo much Teſtified, nor known by the Witneſſes or Biſhop, whether the Parties were a Man and a Woman, or two Women, they never having been eye-witneſſes of the ſame, nor any *Ventre inſpiciendo* appointed for that purpoſe.

Marriage what.

Witneſſes of Marriage, any impoſſible, but the parties.

Secondly, Admit there had been a couple of beaſtly *Jewiſh* Witneſſes, who would ſee 'twas a Man and a Woman lay together, yet it being an undeniable exception againſt all Witneſſes of any matter of Fact, that unleſs they ſhow *Cauſam Scientiæ* to be one or more of their five Senſes, their Teſtimony is worth nothing, and ſuch Witneſſes having no Sence but their Sight to Teſtifie Copulation, it is impoſſible, though their eyes ſaw the external Copulation, that they ſhould ſee the internal to be *Semine Concubitus*, without which the external Teſtimony ſignifies nothing to make a Marriage.

Thirdly, Admit it were poſſible theſe Witneſſes ſaw the man lie with the Woman, yet it is impoſſible, and Perjury for them to ſwear that they ſaw the man get the Child, or that it was not got by another man before or after.

It was an uſual ſaying of *Cato* that he wondred how one *Aruſpex* could forbear laughing when he met another, they both knowing how each gull'd the people: If he were now alive, he would much more wonder,

der, how one Biſhop, who is a Father-finder, could hold his gravity when he meets another, eſpecially when they come to diſcourſe of their rare Art of Divinity, in finding Birds Neſts, and filling them with young Cuckows, making the People beleive they are Sparrows: So here appears an impoſſibility, if there were a Thouſand Witneſſes, for any of them to Teſtifie Marriage or Filiation, but the Parents; and it is before ſhewn, God hath not prohibited Marriage without Witneſſes, nor made it Fornication; and it is likewiſe ſhewn, That the Law prohibiting Marriage without Witneſſes came from the Devil, only for the filthy lucre of the Prieſts; and no inconvenience can be objected againſt Private Marriage and Carnal knowledg, without Witneſſes; or if there could, yet *allegare inconveniens non eſt ſolvere argumentum*, ſo poſitively deduced from the Law of God, I conclude as before;

Firſt, That here is nothing objected which can make private carnal knowledg (between Perſons not prohibited by the Law of God to Marry) Fornication.

Secondly, That therefore liberty of Conſcience ought to be permitted to Diſſentients from the Popiſh Law, to marry publickly or privately with or without Witneſſes, as ſuits beſt with their deſires and conveniences. Miſchiefs of publick Marriage.

Firſt, Becauſe compulſion to publick Marriage or Wooing cauſeth Rivalry both in Men and Beaſts, and publick Wars and Calamities amongſt Men have inſued from Rivals to one Woman, and Nature it ſelf hath inſtructed the Beaſts, which are not able to defend themſelves, to retire into Woods and ſecret places, in Pairs, to ſecure themſelves from Rivals. Rivalry.

Secondly, This cauſeth *Polyandry* when one Woman is Courted by two, or many Rivals, ſhe lies under the Temptation of taſting them all, and not till neceſſitated, to fix on one; this likewiſe Nature teacheth Beaſts, by ſecret retirements of their Females, to avoid promiſcuous Sires of their young. Polyandry.

Thirdly, It expoſeth Brides to Rapes; thus did the *Lapithæ* lay their plot, to fight for a Bride at a publick Wedding, which if the Marriage had been ſecret, without Witneſſes, had been prevented: So had the wicked Laws of King *Evenus*, the *Moors*, and *Indian Bramyns*, that Courtiers and Prieſts ſhould have the firſt Nights Lodging, which were Rapes on the Brides, and might have been prevented; and thoſe filthy Laws would have been to no purpoſe, if the ſecret Marriages of Nature, without publick or private Witneſſes, had been obſerved. Rape.

Fourthly, As publication of Marriages, or intention of Marriage before Witneſſes may cauſe Rape and Violence, ſo it may cauſe Fraud and Deceit, which a ſecret Marriage only known to the Parties would prevent, as appears *Gen.* 29. 21. *And* Jacob *ſaid unto* Laban *give me* Fraud.

my Wife, (for my days are fulfilled) that I may go in unto her. And Laban *gather'd together all the men of the place,* (here are publick Witneſſes enough) *and made a Feaſt. And it came to paſs in the Evening, that he took* Leah *his Daughter, and brought her to him, and he went in unto her. And* Laban *gave unto his Daughter* Leah, Zilpah *his maid for a handmaid. And it came to paſs, that in the Morning, behold, it was* Leah: *and he ſaid unto* Laban, *What is this thou haſt done unto me? did I not ſerve thee for* Rachel? *wherefore then haſt thou beguiled me?* Now if all the men of the place had not been called together, but *Jacob* had gone in unto *Rachel* ſecretly, he had prevented ſo great a Fraud of *Laban* put upon him.

I happening to be in *Scotland*, had the honour of acquaintance with a Gentleman there, and I thank him of receiving a noble entertainment at his Houſe, concerning whoſe Marriage I was given this relation, There were two young Ladies Siſters of great Beauty, drawn by the Pencel of Nature, and not of Art, and not in her vulgar manner, as expreſs'd by the Love-Poet.

——— *Facies non omnibus una eſt,*
Nec diverſa tamen qualem decet eſſe Sororum.

But ſo like one another, that they could not eaſily be diſtinguiſhed, each was

——*Gratuſq; parentibus error.*

often beguiling their Parents with that pleaſant deceit. One of theſe Ladies was married by this Gentleman, and as I remember, I was likewiſe informed that the *Scots* Cuſtom was to make themſelves merry at their Weddings, that the next day after the Brideall night, when Dinner was ended, and a Voider brought in, the Bridegroom was to ſtand with a Creile or Basket on his Back, and the Company uſed as they pleaſed to throw into the ſame as into a Voider, ſo long till the Bride in good-nature took it off from him with her own hand, which the ſooner ſhe did, the better Wife they judged ſhe would be; the Bridegroom being put to this task of the Creile, many loaded upon him ſo long, and the Bride ſhewing no pity releive him, he looked back very wiſtly on her, as he thought, ſaying, *Sweet-heart will you not help me?* She Anſwer'd, *No, I am a Maid*, whereat the company fell a laughing which much amuſed the Bridegroom, at laſt after they had made ſufficient ſport with him about it, the true Bride was brought down the ſtairs, who took off his Burden; the other who refuſed, being her Siſter dreſs'd in her Cloaths. Here might far eaſier have been a deceit impoſed, then by *Leah*, had there not been greater honour and virtue in the Parties, then in *Laban*, yet neither here could it have been done, if the Marriage had been ſecret.

Fourthly,

Fourthly, Compulſion to marry before publick Witneſſes, and denial of liberty of private marriage without Witneſſes, is deſtructive to the modeſty of Nature, (appointed by God, to diſtinguiſh Men from Beaſts) which in all chaſt and vertuous Perſons, deſires the Vail of Secrecy. *Adam* and *Eve* made them Aprons of Fig-leaves, though they were Man and Wife, and none ſaw them but themſelves; and the wild *Africans* and *Americans* with Skins and Feathers cover their ſhame. *Booz*, *Ruth* 3. 14. though he intended to marry *Ruth*, yet to keep ſecret her lying at his Feet amongſt the Sheaves, that Night he makes her riſe in the dark, before one could know one another, and bids her not let it be known that a Woman came into the floor. And *Prov.* 30 19. *Agur* ſaith, *There are three things too wonderful for me; yea four, which I know not: The way of an Eagle in the Air, The way of a Serpent upon a Rock, The way of a Ship in the midſt of the Sea, And the way of a Man with a Maid.* Neither would they ever admit amongſt the *Hebrews* any ſuch idle thing as Banes of publication of Marriage, but a Virgin amongſt them was called *Almah*, that is hidden, or a recluſe from the ſight of men, taking that cuſtom from the *Eaſtern* Countries, in divers of which, the cuſtom of keeping Virgins in their Parents Houſes, unſeen of men, is ſo rigorouſly obſerved, that their very Wooers are not ſuffer'd to ſee them, till married and brought to their Beds, but marry them on good report, as Princes uſe to do. Againſt natural Modeſty.

Fifthly, Publick Wooing cauſeth diſhonour to each Party, and if any Man addreſs himſelf publickly to a Lady as a Suiter, and after ſight likes her not, but deſerts her, this will diſparage her, the thoughts of the next that is wiſhed are that ſhe hath been blown on, and refuſed; the like will it be to the Man, if the Lady refuſe him. Diſhonours the Parties.

Sixthly, Denial of liberty of private Marriage, and puniſhing the ſame, as Fornication, compells men to what is true Fornication and Adultery; for if men cannot be allowed ſecret Marriage, and ſecret Wives, without Witneſſes they will take ſecret Fornication and Adultery, and ſecret Whores and Adultereſſes without Witneſſes, which is a Thouſand times worſe. So what St. *Auſtin* ſays, *Deme lupanaria & turbabis omnia libidinibus*, is not true, nor is Toleration of Stews the Remedy appointed by God to cure Luſt; but private Marriage is the Remedy appointed by God to cure the Stews; for it is ſaid by *Paul*, *To avoid Fornication, let every Man have his own Woman, and every Woman her own Man*, which if denied to ſuch Perſons, with whoſe Conveniencies or Conſcience it ſtands not, to take a Woman or a Man publickly before Witneſſes, and a Prieſt in a Temple, is to deny them to take any Man or Woman at all. Whereas if liberty were given of private Marriage without Witneſſes, to ſuch Perſons as are not by the Law of God prohibited to marry, this would deſtroy all Stews and Brothel-Houſes: Cauſeth Fornication, Adultery, Stews, and Brothels.

for what Man or Woman who have liberty to chooſe whom they like beſt, and to enjoy them privately to themſelves, would be ſo mad to hazard themſelves in common Stews, to be infected with thoſe miſerable and deadly Diſeaſes, to be robbed, ſtript, have their Throats cut, or at leaſt, ſpirited to a Ship, ſold to *Barbado's* or *Barbary?* or if they ſcape thoſe greater dangers, to be all their Lives perſued by Conſtables, Parators, Bedels, hooted at by Boys, Carted, Whipt, Pumpt, and to come to *Bridewell*, and Beggary at laſt.

Too coſtly for the poor.

Seventhly, Publick Marriages are too coſtly for the Poor, therefore to prohibit them private Marriage, is to prohibit them all Marriage, except ſuch as will undo them; the Grand *Seignior* himſelf, dares not venture on that is publick, for the coſt of it, which is one reaſon he is never married publickly by a Prieſt in a Temple.

One Man may have reaſon to marry privately and another not, and one to marry public and another not.

Eighthly, There may be many reaſons likewiſe both for Rich and Poor to marry ſecretly, and one man may have a Reaſon, which another hathnot; and it may be not only inconvenient, but dangerous to one, and not to another; therefore it is fit every man (ſeeing it is not prohibited by God) ſhould have liberty to marry publick or private, with or without Witneſſes, as it ſuits beſt with his conveniencies.

Henry the *Eighth* married *Ann Bulloigne*, the Mother of Queen *Elizabeth* on the 14 of *Novemb.* and kept the ſame ſo ſecret, that it was not known till *Eaſter* after, when ſhe appeared great with Child. And Arch-Biſhop *Cranmer* was married, and kept it ſo ſecret, that it was not known, till diſcovered by the King. No doubt the King and Arch-Biſhop both had very good reaſons for what they did, though they thought not fit to divulge them, either before or after. So *Abraham* and *Iſaac* both endeavoured to keep their Marriages ſecret, by telling lies: they had very good reaſon for their Secrecy, though not for their Lies.

From what hath been ſaid, appears therefore to be proved,

Firſt, That private marriage, or carnal knowledg without Witneſſes, between Perſons not prohibited by the Law of God to marry, is not Fornication, or any other Crime.

Secondly, That it is a remedy provided by God to prevent Fornication, and that the ſame if not forbidden by Papal, Epiſcopal, Pontifical, or other Diabolical Laws, would overthrow all Stews, Brothels, and common Whores, and the whole Myſtery of Iniquity of the *Romiſh Anti-Chriſt*, which fills his Coffers, and ſupports his Power by theſe filthy gains, and far worſe then thoſe *Ex lotio* collected by the covetous Emperour *Veſpaſian*.

Thirdly, That it is a great ſin to forbid to marry: And that thoſe forbid to marry, who forbid either publick or private marriage where not prohibited by God, or take away the free liberty of either, or compel to either

either diſſentients in Conſcience, or differents in Convenience, and thereby become acceſſaries to all the Fornications, Adulteries, and other wickedneſs which enſue thereby.

Of the Law requiring Witneſſes of Marriage and Filiation, where both are acknowledged by the Parents, and no third party claims the Father, Mother or Child.

This irrational Law is put in practice, where a Man and Woman not prohibited to marry by the Law of God, cohabit or keep private company; and the pretence is, That every Man ſhould have his own Wife, and every Woman her own Husband, by the teſtimony of Witneſſes, which is as frivolous, when the parties themſelves acknowledge (though as is before proved they are not bound to acknowledg it, neither is it a ſin) and none elſe pretends claim to the Man or Woman, as 'tis to require Witneſſes of every one poſſeſſed of Lands or Goods, or to force him to anſwer to a Bill of diſcovery of his Title, where none other claimeth or pretendeth a Title better than his poſſeſſion: The like is it where a Man and Woman acknowledg a Child to be theirs, they ought not to be examined, nor forced to produce Witneſſes, whoſe the Child is, unleſs another, as the Harlot did before *Solomon*, claim or pretend right to the Child, for where there is no Controverſie or Crime proved, there needs no Witneſs or Judge; In like manner, where a Child is acknowledged by Parents in their life time, the Inheritance ought to be ſuffer'd to continue to him, as left without proof of Witneſs or Enquiry, where no other pretends to be a Child to the ſame Parents, or a better right then Filiation; for where there is no Controverſie between ſome parties, nor Crime proved, nor Suſpicion, there needs neither Inquiſition, nor Witneſs, nor Judge.

Of the Law when claim is made by Corrivals of one Woman, of Sequeſtration of her pendente placito, *and Sentencing either Man or Woman to be reſtored in* Specie, *and not in Value.*

That where there is a Breach of promiſe, or Contract of Marriage between a Man or Woman, they ought to have liberty to repair themſelves in damage, is granted; but that a Woman is to be Sequeſtred *pendente placito*, or that either Man or Woman is to be adjudged to be reſtored in *ſpecie*, is denied.

Sequeſtration of a Woman unlawful.

1. As to the Sequeſtration of the Woman, this is contrary to *Magna Charta*, and the *Petition of right*, to impriſon a free Perſon before Judgment.

2. None

2. None ought to be taken in Pledge, Diſtrained, or Sequeſtred, which cannot be returned in as good Condition, as when Taken, Diſtrained, or Sequeſtred, which a Woman cannot be.

3. As to return *in ſpecie* and not in value, I ſay, to deliver a Woman to a Man to be lain with againſt her will, is a Rape on the Woman; and the like is it of a Man, to compel him to lye with a Woman, who claims him againſt his will.

4. This indangers the lives of Man and Woman, who are mortal Enemies, by Poiſon, Sword, or other wicked ways, when compelled to Co-habitation againſt their will.

5. To ſentence either Man or Woman to be taken *in ſpecie*, & not in Value, according to the practice of the Eccleſiaſtical Law, bring in the great abſurdity and wickedneſs mentioned by *Forteſcue p.* 75, 76. where ſpeaking of Tryal by Witneſſes in the Biſhop's Court, he ſaith, *If a Man and a Woman make a private contract of Marriage without Witneſſes, and after the Man and another Woman make a contract of Marriage before Witneſſes, ſhall be not in the Contentious Court be compelled to marry her, and alſo after that in the Penitential Court be adjudged to lye with the firſt, if he be duly required, and to do penance as often as by by his own motion and procurement he lieth with the ſecond, though in both Courts the Judge be one and the ſelf ſame perſon.* In this caſe, as it is written in *Job* 40. 17. *Are not the ſinews of the ſtones of* Behemoth *wrapped together, or perplexed*: Fie for ſhame, they are perplexed indeed, for this Man can carnally company with neither of theſe two Women, nor with any other without puniſhment of the Contentious Court, or Penitential Court; but ſuch a miſchief, inconvenience, or danger can never happen by the way of proceeding in the Law of *England*, yea though *Behemoth* himſelf doth labour to procure the ſame.

Forteſcut.

One man Sentenced to lie with two Women, and puniſhed for lying with each.

Of the Law making all prohibited Marriages Null.

Marriage without Witneſſes or Ceremony, not void, though prohibited.

The Law of the Pope, and Council of *Trent*, not only prohibited all Marriages except contracted before two Witneſſes, and a Prieſt in a Temple, but makes them null and void. The Law of *England* prohibits them, but doth not make them null and void, though the common practice of the Biſhop's Court and Certificates, contrary to Law, follows the Canon of the Council of *Trent*, and though it was made after all Forein Juriſdiction, was by Act of Parliament aboliſhed. But to ſpeak now according to the Law of God, and of the Land, I ſhall firſt cite the opinion of *Grotius* and other Authors upon it: As to the Law of God, *Grot. de jur. Bell. & Pac. pag.* 142. ſaith; *Si lex humana conjugia inter certas perſonas contrahi prohibeat; non ideo ſequetur invitum fore Matrimonium, ſi re ipſa contrahatur; ſunt enim diverſa, quid prohibere, & quid irritum facere;*

nam

nam prohibitio exerceri poteſt per pœnam vel expreſſam vel arbitrariam, & hoc genus leges imperfectas vocat Ulpianus, *quæ fieri quid vetant, ſed factum non reſcindunt.* And after he ſaith, *Indecentia eſt major in Actu quàm effectu; ſæpe etiam incommoda quæ reſciſſionem ſequuntur, majora quàm ipſa indecentia aut incommodum Actus ipſius.* If any human Law prohibit Marriage between certain perſons, it doth not therefore follow, that it makes ſuch Marriage void, if it be actually contracted; for to prohibit a thing, and make a thing void are two different things, for a prohibition may exerciſe its power ſufficiently by a penalty, either Expreſs or Arbitrary, and this kind *Ulpian* calls imperfect Laws, which forbid a thing to be done, but if done reſcind it not. After he ſaith, For often times the indecency is greater in the act, then the effect; and often times the miſchiefs are greater which follow a reſciſſion, then the act it ſelf. With this agrees the expreſſion of *Thamar* to her Brother *Ammon*, attempting to force her. *Thamar* and *Ammon*. 2 *Sam.* 13. 12. *And ſhe anſwer'd him, nay Brother do not force me, for no ſuch thing ought to be done in* Iſrael, *do not thou this folly: And I, whither ſhall I cauſe my ſhame to go? And as for thee, thou ſhalt be as one of the Fools in* Iſrael: *Now therefore I pray thee ſpeak unto the King, for he will not withhold me from thee. Howbeit he would not hearken to her voice, but being ſtronger then ſhe, forced her, and lay with her. Then* Ammon *hated her exceedingly, ſo that the hate wherewith he hated her, was greater then the love wherewith he had loved her: And* Ammon *ſaid, ariſe, begone. And ſhe ſaid, There is no cauſe: This evil in ſending me away is greater then the other that thou didſt unto me, but he would not hearken unto her.* For the ſame reaſon King *Alcinous* adviſeth, That *Medea* ſhould be returned to her Father, if ſhe were not defloured, but if ſhe were, the reaſon will be otherwiſe, as is remembred by *Apolonius* in his *Argonaut.* So likewiſe the *Sabin* Virgins being taken by the Souldiers of *Romulus*, their Parents raiſing Arms again to reſcue them home; when the two Hoſtile Armies in Battalia drew neer one another, the *Romans* ſent their Fœminine Prizes to mediate a Peace, who uſing this argument to their friends and kindred, as they ſtood ready to fight, That it would be a greater injury to their own honour, and their friends, to take them from their Raviſhers, who were now their Husbands, then their firſt Rape, and thereby obtained it. *Medea*. *Sabin* Virgins.

Luther to this purpoſe, relates a ſtory of a young Man he knew at *Erfort*, who tempting his Mother's Maid, the Maid acquainted his Mother with it; ſhe with a pretence to School her Son into a better Leſſon, layes her ſelf in her Maid's Bed, her Son gets her with Child of a Daughter, which being concealed, and the Daughter ſent abroad to Nurſe and School, and after being grown up and brought home, the young Man knowing not of it, married her; ſo that ſhe became thereby his Daughter, Siſter, and Wife. After the ſame being diſcovered, the Univerſity was conſulted. *Luther*.

ſulted about it, who thereupon adviſed the Mother to repent of her wickedneſs, but ſeeing the married Couple were ignorant thereof, and knew nothing, they adviſed, to avoid greater offence, that they ſhould continue together; *Quod fieri non debet, factum valet.* Here was a Marriage prohibited by the Law of God and Man, yet when made, it appears the opinion of the Univerſity was, it ought not to be reſcinded.

Law of *England* doth not null a marriage not according to the Common-Prayer-Book, though it prohibits it.

I am next to ſpeak concerning the Law of the Land, which, though it prohibit, yet doth not null a Marriage, not made according to the form of the Common-Prayer-Book.

The firſt Reaſon is, It doth not null the Marriage of a Papiſt, which is not according to the Book of Common-Prayer; *à fortiori*, therefore it doth dot null a Proteſtant's, which is not made according to that Form.

That it doth not null a Papiſt's Marriage, appears by the Act 3 *Jac.* 5. where a Papiſt is prohibited to be Married otherwiſe then in ſome open Church or Chappel, by a Miniſter Lawfully authorized, upon pain that the Man ſhall loſe to be Tenant by the curteſie, and the Woman her Dower, Widows eſtate, and *Frank Bank*; or if the Woman hath no Land, whereof the Man may be Tenant by the curteſie, then the Man is to loſe a hundred pounds: So in caſe of a Papiſt, nothing ought to be exacted for Non-conformity in Marriage, but the expreſs penalties; nor can the Marriage of a Papiſt, though not according to the Act, be made null, or the Children thereby illegitimate, why then ſhould a Proteſtant's?

2. Becauſe the Council of *Trent*, which made the Canon, That all Marriages ſhould be null and void, except contracted before two Witneſſes, and a Prieſt in a Temple, is a Forein Juriſdiction, and the Canon was made after the aboliſhing all Forein Juriſdiction; the ſame ought not therefore be admitted to null any Marriage in *England*, or illegitimate any Child.

3. This is confeſſed by a Learned Civilian and Canoniſt of our own, belonging to the Eccleſiaſtaical Court. *Swimburn of Wills and Teſt.* 1 *part* 34. Who there ſaith, *That an unſolemn Marriage, or not having Canonical Ceremonies, is not therefore no Marriage, becauſe it is unſolemn, the Banes perhaps not being asked or the Marriage not Celebrated in the face of the Church, but privately in a Chamber or ſome other Rite or Ceremony omitted, but is nevertheleſs a true Marriage:* And in the Margent he adds to this effect, *Inſolemnitas autem eſt defectus juris civilis non juris naturæ; nam illa requiſita de quibus in C. cumin habitio de Cland. deſpon. ſext. non eſſe de forma & ſubſtantia matrimonii, & Legitimationis prolis, ſed de ſolennitate tantùm, & ipſius decore introducta, Poſt Theolog. & Canoniſtas prodidit* Granis *Conſul. Civil.* 168. *& hanc op. communi calculo receptam, dicit* Jo. Lub. & Maſcard *de probat verb. filius conclu.* 798. *n.* 8. *& licet hodie per Concil.* Tridentin. *hujuſmodi*

Swimburn.

juſmodi matrimonia fiunt irrita. Nos tamen ſequimur antiquum jus commune tanquam non mutatum. Inſolemnity is a defect in the Civil Law, and not of the Law of Nature; for thoſe requiſites of 1 *C. inhibitio de clan. deſpon.* Granis *Concil. Civil.* 168. hath delivered, after many Divines and Canoniſts, the ſame not to be of the ſubſtance of Matrimony, and Legitimation of Children; but only introduced for their greater Ornament. And *Jo. Lub.* and *Maſcard de Probat. verb. Filius* 798. ſay likewiſe, The ſame opinion to be received by general approbation; and though of late the Council of *Trent* hath made ſuch Marriages void, yet they follow the ancient Common Law, as not changed: Whereby it appears that the Canon of the Council of *Trent* to make Marriages not according to the *Romiſh* Ceremonies, is rejected in many other places, and much more in *England*; where all Forein Juriſdiction is aboliſhed, and there is no other Law of *England*, if that of the Council of *Trent* is excluded, which makes any Marriage of Proteſtant or Papiſt void, or illegitimates the Children: If the Marriage is not therefore void, it is valid, and hath all the rights of a valid Marriage, and the Children all the rights of Legitimate Children.

4. It is already in part, and will hereafter be further ſhewen, That carnal knowledge and not Ceremonies are Marriage, and that the ſame, and the birth of a Child, and not Ceremonies make Matrimony; and that both Marriage, and Filiation are impoſſible to be proved by any Witneſſes, except the Parents admit: Therefore if the Canon of *Trent* were confirmed by Act of Parliament, or a thouſand Acts of Parliament, yet can they not make that Matrimony and Filiation, by a Ceremonial Law of Man, void, which is eſtabliſhed by the Moral Law of God, as will be further ſhewen under the Title of Ceremonial Law, and Law of God.

Of the Cuſtom of Super-alimentary gifts in conſideration of carnal knowledge, between a Man and Woman, both before and after Marriage.

Nuptial love is like the gift of God, impoſſible to be bought for mony. *Cant.* 8.7. *If a Man would give all the ſubſtance of his Houſe for Love, it would utterly be contemned. Solon* the *Athenian* Law giver ordained, That Wives ſhould not bring their Husbands above three Gowns, and ſome other movables of ſmall value. *Lycurgus* inſtituted, That Virgins ſhould be married without Portions. 1. That none might remain unmarried for their poverty. 2. That none ſhould be taken for their riches, but their vertues. *Plut.* In *Poland*, Fathers give no more with their Daughters then their Wedding Clothes. And the truth is, as to Fahers, it comes all to one, whether they give Portions with Daughters, or none, if there were ſuch a Law; for if *A.* and *B.* have each of them three Sons and three Daughters, and *A* give Portions with his Daughters, to the Sons of *B*, and *B* give back again

Portions of Daughters.

again thoſe Portions with his Daughters to the Sons of *A*, there is nothing got on either ſide, but the trouble and hazard of tumbiing in and out the money, and the vexation of Lawyers with their foul Fines, and crabbed Concords, to do and undo all again like Juglers knots. The *Venetians* had a Law none ſhould give above fifteen hundred Crowns, others ſay ſixteen hundred Duckats with a Daughter, yet are they very rich. *Bodin* cries out againſt high Portions, and ſaith, *That by the Antient cuſtom of* Marſeilles, *it was not lawful to give above an hundred Crowns with a Daughter, and five Crowns in Apparel.* And a Law was made by *Charles* the Ninth, forbidding to give a Daughter above a thouſand pounds ſterling: And yet the Ordinance of *Charles* the fifth doth give no more unto the Daughters of the Houſe of *France*; and though *Elizabeth* of *France*, Daughter to *Philip* the *Fair*, was married to the King of *England*, yet had ſhe but Twelve hundred pounds ſterling to her Dowry. Some will ſay it was very much, conſidering the ſcarcity of Gold and Silver in thoſe days, but the difference is likewiſe very great betwixt a thouſand pounds, and four hundred thouſand Crowns: It is true, ſhe was the goodlieſt Princeſs of her Age, and of the greateſt Houſe that was at that day. *Henry* the Eighth gave for Portions to his Daughters, Queen *Mary*, and Queen *Elizabeth*, but Ten thouſand pounds a piece. And if we will ſeek higher, we ſhall find that in the Law of God, the Marriage of a Daughter was taxed but at fifty Shekells, which makes at moſt but four pounds ſterling of our money.

Gifts by Men to Women.

Amongſt the *Jews* there appeared almoſt no other diſtinction in the Scripture between a Wife and a Whore, but one took hire, and the other none; and indeed if there were no hire or gifts, there would be no Whore. *Deutr.* 23. 18. It is ſaid, *Thou ſhalt not bring the Hire of a Whore, nor the price of a Dog into the Houſe of the Lord.* And it is ſaid *Ezek.* 16. 31. *And haſt not been as an Harlot, in that thou ſcorneſt Hire; but as a Wife that committeth Adultery, that taketh ſtrangers inſtead of her Husband. They give gifts to all Whores, but thou giveſt gifts to all thy Lovers, that they may come unto thee on every ſide for thy Whoredom. Mich.* 1. 7. It is ſaid, *They ſhall return to the Hire of an Harlot.* And amongſt the *Greeks* Πόρνη and Πόρνος, which may be *Engliſhed* a Rogue and a Whore, came both from Πέρνημι, *vendo* to ſell, which were the Lady of Pleaſure and the Gallant, which let themſelves to hire for money.

Gifts in Law from Women to Men, and Men to Women.

Beſides theſe gifts by acts of parties, there are worſe, and more mercenary gifts and hire given by acts of Law Super-alimentary, to hire Men and Women to lye together: To the Man, if he can deceive ſuch a Woman he ſhall have all her Goods and Chattels, as is before ſhewen, by Tranſubſtantiation by force, while ſhe is alive; and after her death, all her Lands and Tenements by courteſie as long as he can live: And the Woman, if ſhe will lye with ſuch a Man, ſhall ſteal and beg all ſhe can from him while

while alive, and when he is dead ſhe ſhall have Dower and Thirds beſides: which gifts in Law, on both ſides, are for no other end, then *ob turpem cauſam Copulationis*. As to Aliment, 'tis granted the Husband ought to provide for the Wife, and the Wife for the Husband; but Super-alimentary gifts are the matters here queſtioned.

The miſchiefs of gifts Super-alimentary on Marriages, either by act of the Parties or of Law, are,

Miſchiefs of Gifts Super-alimentary in Marriage.

Firſt, In regard of Publick Government, Religion is thereby depraved, Proteſtant Men are enticed to marry Papiſt Wives for great Portions and Tenancy by Courteſie; and Proteſtant Women to marry Papiſt Husbands for great Jointures, Dowers, and Thirds.

2. By theſe gifts Super-alimentary, the Wealth of many Families is accumulated in one, eſpecially by Daughters Heireſſes. A great So'œciſin in the Policy both of Monarchies and States; for it is apparent by the Coats and Titles, that many Families quarter; the Subjects grow more Rich and Potent than the Prince. This was prevented by *Moſes*'s Law, by raiſing up Seed to the Brother, and by marrying of Inheritrixes to the next Kinſman; as likewiſe did the *Athenians*. It was prevented in *Perſia*, *Armenia*, *Africk*, and almoſt through all the Eaſt, by limiting the Succeſſion of Inheritances, by a kind of *Salique* Law, only to the Males, and giving only the Moveables to the Daughters; till *Theodora*, to ſet up her Fœminine Militia, got her Blunderbus *Juſtinian* to repeal that Antient Law. Now though a Family *Salique* is of excellent uſe to preſerve the equality of private Families: yet in Royal Families it is contrary to all ſound Policy, hindring the Union of Kingdoms by Marriage; for private Families may be too Potent, but Kingdoms cannot. In other Nations equality of private Families are preſerved by *Gavelkind* amongſt the Sons, and *Parcenary* amongſt the Daughters; and amongſt the *Jews*, by limiting Primogeniture to no more than a double Portion.

3. Another Miſchief to the Publick of marrying Daughters with great Portions, is, it foments Seditions, and hinders the Union between *Patricians* and *Plebeians*, and between Poor and Rich; as we ſee in *Rome*, where they married for great Portions, they would take the handſomeſt Daughters of the *Plebeians*, and abuſe, but not marry them; becauſe though they had Beauty to anſwer their Luſt, they had no money to anſwer their Covetouſneſs. But amongſt the great Eaſtern Princes, where they buy and receive no Portion from their Wives, they marry the Poor equally with the Rich, which is no queſtion a great obligation on their Subjects, by becoming, as it were, the ſame fleſh and blood with them; who ſeeing the Daughter of a Maſon, Queen in the great Kingdom of *China*; and the Daughter of an Herb-Woman, *Sultana* to the *Grand Seignior*,

nior, and their Princes born of theſe; they think themſelves highly honoured to be of equal blood with their Princes. In like manner the Antient Cuſtom of the *Babylonians* and *Indians* of ſelling the faireſt Virgins to the Rich for Money, and giving that Money to the unhandſom to be Wives for the Poor, united the Poor and Rich by Marriages.

4. Another great Inconvenience is, The Father gives ſo great a Jointure to the Mother, that when he dies, ſhe marries another Husband, and ſtarves her firſt Husband's Children; and the Father he gets ſo great a Portion, and Courteſie of the whole Eſtate of the Mother, that he marries when ſhe dies, another Wife, and brings in a Step-Mother over his firſt Wive's Children: whoſe good quality the Poet expreſſeth:

Lurida terribiles miſcent Aconita Novercæ.

Step-Mothers terrible poiſon'd in ſpight
Sons of firſt Mothers with blue Aconite.

5. To marry for Money, ſhackles Young Men to Old Women, and Young Women to Old Men, and perſons loath'd one to another; whereby they become miſerable both Body and Soul, and fall into Adultery and Fornication, and often to poiſon or otherwiſe deſtroy one another: Whereas were there not the Temptation of great Portions, Tenancies by Courteſie, Jointures, Dowers, Thirds, every one would marry where they beſt liked, and might thereby live vertuouſly and happily all their days.

This hath been endeavour'd to be remedied by the Civil Law, in the Title *De Donationibus inter virum & uxorem*, by making all Gifts void between a Man and his Wife; and the ſame Law gives another Reaſon of it, *Ne nimio amore ſpolientur*, leſt the party who loved leaſt ſhould rob moſt, and the worſt Nature make a prey of the beſt. The Common Law pretended likewiſe, in imitation of the Civil Law, to make all Gifts void between *Baron* and *Feme*; but it diſſembled: for it forbid ſuch Gifts to be made directly, but encouraged them to be done indirectly by *Chancery* truſts, which is ten times worſe.

In *Scotland*, to prevent the taking away the Eſtate of one Family by another by theſe Marriage-Gifts, or Covenants, they have an Excellent Law and of great Equity, which makes them void, as appears by *Craig. Feud.* 307. but 'tis only in one Caſe, which is, when two perſons have Marriage-Covenants for Portion and Jointure, agreed and ſigned, and they are accordingly married thereon: If either the Man or Woman die within the Year after Marriage, without any Iſſue between them; the

Writings

Writings of the Portion and Marriage ſhall be all void, and the right of the Portion return to the Father of the Woman, and the Jointure to the Father of the Man, and both Families be *in Statu quo* they were before the Marriage.

The *Arabians*, *Britons*, and other Nations, to the intent that one Family might not by Marriage Gifts rob another, always married in the ſame Family, and Brothers and Siſters married, making that Religion to marry in the Family, which others made Inceſt; and that Inceſt to marry out of the Family, which others made Religion: This indeed ſecured all within the Family, but there are many more Lawful ways before mention'd, and amongſt the reſt, the making all ſuch Gifts, foraſmuch as is Super-alimentary, void, or at leaſt to limit them by a Law, That all Portions, and Tenancies by Courteſie above the value of ooco ſhall be void, and all Jointures, Dowers, and Thirds above the value of oooo ſhall be void.

Portions and Jointures both to be limited.

A *Satyr* againſt Mercenary Marriage.

CUrſed the Female was, or Male,
Who firſt did Beauty ſet to Sale:
For Love did then looſe both his Eyes,
When Gifts *and* Gold *did blind the wiſe;*
And Venus, *which did ſhine on high,*
From Heaven *fell into a* Stie.
Priapus *then, the God unclean,*
Thereon his Temple built obſcene;
And ſet the Steeple up and Spire,
That he might ſhare both Whores *and* Hire.
And Sextons *ſet to keep the Keys,*
That none might enter without Fees:
And Cryer *next to Curſe and Ban,*
Unleſs well paid *Woman and Man;*
And Paritor *about to ride*
With Bag for Money *by his ſide,*
All Women unto Court *to bring,*
Who did not Wed with a Gold-Ring.
Then Fathers left their Babes forlorn,
Who had no Licence *to be born,*
And Mothers fled, Oh heavy Doom!
Becauſe they were not called home.
Then Prieſts *to make them greater Whores,*
Fetter'd Fifteens *to* Fourſcores,
And married dead to thoſe alive,
Mezentius Torment to revive;
Mouths bound to Mouths were Eyes to Eyes,
With Breaſts to Breaſts, and Thighs to Thighs.
When Prelats in fine Linnen jetting,
Of Reverend Fathers own begetting,
Their Babes of Grace, oh pretty things!
Made often Heirs to Peers and Kings.

This Palls *and* Miters *firſt made ſhine,*
And Miſsions *to be Divine:*
Thus Love *and* Hate *together Took't,*
The Hangman Prieſt together choak't;
And for the Murders claymt a Fee
To his unholy holy See.
The Ambidextrous Lawyer enters,
And takes a ſhare with his Indentures;
Lawyer nor Prieſt, nor Book nor Bell
Would have, did they not Women Sell.
If Money her or me muſt buy,
Loves Pedlars I you all defy.
1 *King.* 11. 3. Money *did* Solomon *beguile,*
His firſt black Wife to ſetch from Nile:
And her, becauſe he lov'd not beſt,
With Thouſand Wives to be oppreſt.
This was beginning of the Trick,
The wiſe turn'd after Lunatick.
Aſtaroth was the *Moon.* *The Goddeſs* Aſtaroth *to pleaſe,*
Who Ruled the Sidonian *Seas;*
Milcom was *Priapus.* *And* Milcom, *be the foul delight,*
Adored of the Ammonite.
This, Proteſtants made Papiſts Wed,
And fight and ſcratch in the ſame Bed.
Faith and Religion both Divine,
Lie Victims at Pecunia's *Shrine.*

Of the Law giving Juriſdiction of the ſecret Cauſes of Divorce between Parents, and ſecret Uncleanneſs of Children in their Parents Houſes to publick Tribunals, contrary to the Law of God.

It will be Objected, How ſhould thoſe Sins of Carnal Uncleanneſs be puniſhed, if not brought before a publick Judge?

'Tis Anſwer'd, Far better than by him.

Firſt, It not denied, but publick Fornication and Adultery, where there are Witneſſes, belong to publick Juſtice to puniſh, as where *Diogenes* lay with a Woman in midſt of the Market; or as *Leo Aſer* mentions, where a *Mahumetan* Prophet lay with another man's Wife at a publick Bath in ſight of a multitude of By-ſtanders. It is not denied likewiſe, but Bawds, Panders, Stews, Brothel-Houſes, where are Witneſſes, are and ought to be ſeverely puniſhed by the publick Magiſtrate. But the Queſtion is, of ſuch Fornication and Adultery which are generally ſo ſecret, as none but the Parties themſelves can witneſs againſt themſelves: theſe appear expreſly by the Scripture it ſelf, that they belong neither

to

to Prieſt nor Magiſtrate, to judg or puniſh, but only to God: for it is ſaid, *Deut.* 29. 29. *Secret things belong unto the Lord our God: but thoſe things which are revealed, belong unto us and our Children.* And *Heb.* 13. 4. *Marriage is honourable in all, and the Bed undefiled: but Whoremongers and Adulterers God ſhall judg.* It is not ſaid man ſhall judg of ſecret ſins, but God. And *Deut.* 17. 6. It is ſaid, *At the mouth of two Witneſſes, or three Witneſſes, ſhall he that is worthy of death, be put to death, but at the mouth of one Witneſs, he ſhall not be put to death.* And 19. 15. *One Witneſs ſhall not riſe up againſt a man for any Iniquity, or for any ſin, in any ſin that he ſinneth: at the mouth of two Witneſſes, or at the mouth of three Witneſſes, ſhall the matter be eſtabliſhed.* And 1 *Tim.* 5. 19. *Againſt an Elder receive not an Accuſation, but before two or three Witneſſes.* And there is very great reaſon that man ſhould not preſume to uſurp on the Juriſdiction of God, in things ſecret, eſpecially in theſe and other offences of uncleanneſs. For

First, This many times indangers the lives of innocent Parties, how many *Joſeph's*, how many *Athanaſiuſſe's*, how many *Suſanna's*, have been falſly accuſed. How far from the Law of God or Juſtice, is therefore the proceedings of Eccleſiaſtical Courts, and many Juſtices of Peace, who without any other Witneſs, then ſo incompetent a one as a leud Woman who is the Party, and gains by it, charge and puniſh men for Baſtardy and Fornication, and contrary to *Magna Charta*, the *Petition of Right*, and all the Fundamental Laws of the Land, made for preſervation of the Liberty and Propriety of the People, the one by cauſing *Excommunicatos Capiendo's*, the other by Warrants, ſend whom they will to Goal, and Impriſon them at their pleaſure? And how far again from the Law of God or Juſtice is the compelling men for theſe Crimes to ſelf-accuſation, when they can get no Witneſſes as they ought to have.

Juſtices of Peace ought not to receive accuſations of Fornication, on the ſingle Teſtimony of a leud Woman.

Secondly, Publick Inquiſitions and Puniſhments of theſe Crimes of uncleanneſs, do more corrupt then reform both Judg and People. For the Judg, example may be taken from Auricular Confeſſors, who under pretence of injoining Penance to others, learn to be above all others the moſt debauch'd themſelves: and as to the People, it is either a licencing or incouragement to all ſuch as are rich, who for a little Commutation-Money buy the Pope's Pardon, or what is equivalent, the Biſhops, or the Kirks; or if they will not ſuffer them to Commute, the People when they ſee the Nobles in the Stools of Repentance, will think it an honour to follow them, and beſides, for People to hear or ſee the publick Examinations and Stories of uncleanneſs in publick Courts, they oftentimes do but learn more wickedneſs then ever they knew or thought of before, and are leſs corrupted at a Play-Houſe then ſuch a Scene of Juſtice. All this is far better puniſhed in every private Family between the Parents, if there be juſt cauſe, by Divorce one of another without

without publiſhing the cauſe, and if there be no cauſe amongſt the Children, by taking away as much of their Portions as the offence deſerves, and giving the ſame to the innocent Children, and by good inſtruction, reproofs, and virtuous examp'e of the Parents, which will prevent more offences in Children, then Tribunals can ever reform, though they have Witneſſes.

So *Lycurgus* by commanding in his Laws, That all Captains of Armies, and Prieſts of Temples, ſhould marry, and that Husbands themſelves ſhould come to their Wives, *Furtim & verecunde*; and the Children be modeſtly Educated, leſt *Sparta* ſo clean from unchaſt demeanour, that when *Geradas*, an old *Spartan*, was asked by a ſtranger, What was the Puniſhment of Adultery in *Sparta*, for he could find no Law made by *Lycurgus* concerning that Crime; Oh Friend ſays he, There is no Adulterer with us. When he reply'd, But what if there ſhould be any? *Geradas* told him, He ſhould pay a Bull ſo big as ſhould be able to ſtretch his Neck over *Taygetus*, and Drink of *Eurotas*, when the other laughing, ſaid, There is not ſuch a Bull to be found; Neither, quoth *Geradas*, Is an Adulterer to be found in *Sparta*, where Riches, Luxury, and wantoneſs of Apparel are counted a diſgrace; and Modeſty and Obedience to Magiſtrates an Honour. Where the Seminaries of Vices are not permitted, how can Vices grow?

Firſt, Therefore as to Man and Wife, as *Bodin lib.* 1. *cap.* 3. ſays, Nothing ſeems more pernicious, then to compel the cauſe of Divorce to be ſhewn before a Judg: for in ſo doing, the honour of one or both Parties is hazarded, which would not be, if neither of them were compel'd to prove the ſame before a Judg; as *Plutarch* in *Alcib.* relates, That when the Wife of *Alcibiades* went to complain of him before the Judg, he came after her into the Court, and took her by force, and carried her away home on his Shoulders, *Ne Stereta Fori Panderet*, whereat the Judg only ſmiled. The *Hebrews* likewiſe uſed to make their Bills of Divorce without a cauſe; neither is it prohibited by Chriſt, if there were a true cauſe, to put her away by private Bill, without publick Tribunal or Judg; for ſuch were all the Bills of *Moſes*, and no publick Judg required to judg of the Cauſe, but only the Conſcience of the Party. And *Joſeph* having a juſt cauſe of ſuſpicion againſt *Mary* his Wife, did not bring her before a Judg; and is commended for ſo doing, to be a juſt man; as *Matth.* 1. 19. is ſaid, *Then* Joſeph *her Husband being a juſt man, and not willing to make her a publick Example, was minded to put her away privily.* So doth *Plutarch* in *Æmil.* relate of *Paulus Æmilius*, Who according to the Cuſtom of the *Romans*, ſhewed no cauſe of putting away his Wife, but affirmed her very honeſt, wiſe, and nobly deſcended, and by whom he had alſo many fair Children; but when he was preſs'd by her Friends to ſhew the cauſe why he would then Divorce,

vorce, he ſhewed them his Shoo, which was very handſomely and well made, and yet ſays he, *None of you know, but my ſelf feeleth where it wrings my Foot.* By which doing the Woman is not diſhonour'd, but may marry with another ſuitable to her quality; and the ſame liberty had the Wives to divorce themſelves from their Husbands, without proving or ſhewing any cauſe before a publick Judg. This likewiſe preſerves the repute of the Children, who though innocent, will likewiſe perpetually bear the reproach, if the diſhonour either of their Father or Mother be publiſh'd before a Judg. And further, as to drawing the ſecret offences of uncleanneſs of Children, eſpecially of Daughters, before, a Judg, who are under the Family *Juriſdiction*, either of Father or Mother, or Husband, the ſame is an undoing to thoſe who offend: for though they never ſo much repent and amend, yet there can be no repairing of their ſhame, or name when publiſh'd; and the innocent, who are the Father, and Mother, and Husband, and the other Children, the diſhonour can never be taken again from them. *Seneca* therefore who in all other things was a great honourer of the virtue of *Auguſtus*, yet blames, as a great overſight in that wiſe Emperour, that he puniſhed the Adulteries of his Daughter *Julia*, publickly by Baniſhment. *Quæ potius*, ſaith he, *Principi tacenda quàm vindicanda ſunt.*

Secondly, It makes every petty difference between Man and Wife irreconcilable, and heightens Contention from a ſmall ſpark, by blowing it abroad to ſo great a flame, that it is at laſt unquenchable; for the publiſhing of many things, neither criminous nor ſinful, may affect ſome modeſt Natures with as deep a ſence of diſgrace, as thoſe that are falſe, as much as thoſe that are true, and when once publiſhed, cannot by repentance be again revoked, but may cauſe ſuch hatred between the Parties, as will never again admit them to live together.

Thirdly, Where offences are not publiſhed, they oft times may with honour be forgiven, and the Parties reconciled, which if publiſh'd cannot. So *Antonius Pius* forgave the Adultery of *Fauſtina*, and would not draw it to publick Judgment, to prevent his own ſhame. And *Æl. Spart.* writes, That the Emperour *Adrian* did the like to his Empreſs, who though he ſuſpected, yet put not away, but only removed ſuch Courtiers from his Court as he ſuſpected.

Of the Law compelling Perſons Married though mortal Enemies, to Cohabitation.

Another great miſcheif is in the Eccleſiaſtical Laws, they compel Cohabitation of Men and Women, when they are mortal Enemies, and take off *Exequenda Matrimonialia Officia*, and due benevolence, when

one inſidiates for the life of the other, of which take *Bodin* further, *Fol.* 19. but ſays he, If the Cauſe ſeem not ſufficient to the Judg, (which he intends the Cauſe alledged of Divorce to an Eccleſiaſtical Judg,) or be not well proved, it is therefore meet to inforce the Parties to live together in that Society, which is of all other the ſtraighteſt Teſt, having always the one and the other the object of their grief ſtill before their Eyes. Truly (ſays he) I am not of that opinion, for ſeeing themſelves brought into extream ſervitude, fear, and perpetual diſcord; hereof enſue Adulteries, and oftentimes Murthers, and Poiſonings, for the moſt part to men unknown. And for this cauſe, free Divorce to both Parties, and *non*-Cohabitation was permitted by the *Roman* Laws not out of wantonneſs, but out of the greateſt neceſſity and Piety, for preſervation of thoſe ends for which Marriage was inſtituted: with the leaſt danger and diſhonour that might be to either Party, wherein they muſt of neceſſity ſuffer, if either free Divorce be tolerated, or the examination of the cauſes of the ſame drawn to publick Tribunals. One cauſe *Cato* the *Cenſor* complains of, for which the freedom of Divorce, and *non*-Cohabitation ought to be permitted, was, becauſe he uſed to ſay, That all Adultereſſes were Poiſoners, and this likewiſe appears by *Valer. Max. lib.* 2. *p.* 8. where it is thus related, *Veneficii queſtio & moribus & Legibus* Romanis *ignota, quam plurium matronarum patefacto ſcelere orta eſt, quæ cùm viros ſuos clandeſtinis inſidiis veneno perimerent, unius Ancillæ indicio protractæ, pars capitali judicio damnata centum Septuaginta numerum compleverunt*: An Inquiſition was made concerning Poiſoning, being an offence not known to our Manners or Laws, and the wickedneſs of many Matrons being diſcloſed, who by ſecret Treachery had kill'd their Husbands by Poiſon, they being drawn forth by diſcovery of a Maid, that part of them who were condemned to death, amounted to the number of One Hundred and Seventy: A great number for one City at one time, and was no doubt not one of the ſmalleſt cauſes why Divorces grew ſo frequent in after-times, not as is vainly pretended, out of wantonneſs, but of neceſſity. Whereas if this private way of Juſtice and defence ſhould not be tolerated to Families without publick *litis conteſtations*, neither the honour or ſafety of any Family or Perſons therein could be preſerved; and ſuch as had a mind to ſeparate, if they could not do it but by publick Judgment, would likewiſe, either as the *Muſcovites* are ſaid to do, Hire ſome falſe Witneſſes or Knights of the Poſt, to defame one another, or oftentimes, if that will not do, to deſtroy the lives of one another, or before the Party can make publick proof, Poiſon, or otherwiſe kill him, whereby after it will be too late, as it was in theſe 170 Husbands, for any complaint to be made to the publick; and the Wives are likewiſe in as great danger, if they have not the ſame liberty of providing for them themſelves on the firſt diſcovery of

of danger. Had it not been better for all theſe murther'd Husbands and Wives to have parted on either ſide, then to have acted ſuch a Tragedy together. So *Ægiſtheus* corrupting *Clytemneſtra* to Adultery, thereby got her concurrence to the death of her Husband *Agamemnon*. And *Sejanus* having received an affront from *Druſus*, plotted no other way to deſtroy him, but by corrupting his Wife, as ſaith *Tacit. Annal. lib.* 4. *Cuncta tentanti promptiſſimum viſum ad uxorem ejus* Liviam *convertere, hanc ut amore incenſus Adulterio pellexit, ad conjugii ſpem, conſortium Regni & necem mariti impulit.* So the Brother of *Lewis* the *Firſt*, King of *Hungary*, was ſtrangled by his Wife, and ſhe married a new Husband; *Lewis* the King goeth into *Italy* to revenge his Brother's death; ſhe and the new Husband fly to the Pope, who protects them. Here neither the corruption of *Clytemneſtra*, nor the Wife of *Druſus*, nor the *Hungarian* Hang-woman could have been diſcovered before a publick Judge, till it had been too late. What are therefore ſuch Eccleſiaſtical Laws and Judges, who compel ſuch ſecret and deadly Enemies to Co-habitation in one Houſe, but acceſſary to their Murders, and who forbid them to marry others, but acceſſary to the great ſins of their Fornications, and Adulteries?

Authent, Col. 23. 140. The Title of the Law is, *Ut conſenſu Matrimonium ſolvi poteſt.* And the Law it ſelf ends with this Reaſon; *Eos ſiquidem qui violento affectu odioq; correpti fuerunt, perquam difficile eſt reconciliare; contingit enim ut ex his nonnulli ad mutuas inſidias procederent, veneniſq; & aliis quibuſdam, quæ lethalia eſſent, uterentur in tantum, ut ſæpe liberi qui ipſis communiter nati eſſent eas in unam tandemque voluntatem conjungere non potuerint.* Divorce by conſent.

Of the Law of Divorce à Menſa & Thoro.

Haddon, in the new draught appointed in the times of *Henry* the Eighth, and *Edward* the Sixth, for Reformation of Eccleſiaſtical Laws expreſly aboliſheth Divorce, *à Menſa & Thoro*, in theſe words, *Menſæ ſocietas & Thori ſolebat incertis Criminibus adimi Conjugibus, ſalvo tamen inter illos reliquo Matrimonii jure; quæ conſtitutio cùm à Sacris literis aliena ſit, & maximam perverſitatem habeat, & malorum ſentinam in Matrimonium comportaverit, illud Authoritate noſtra totum aboliri placet.*

To prohibit Divorce *à vinculo matrimoni* for adultery or other Lawful cauſe, and to prohibit the ſame to be done privately between the parties themſelves, without drawing the cauſe to publick Tribunals, is to contradict Chriſt himſelf, who ſpeaks of a private Divorce by a Bill both from the Husband and the Wife, according to *Moſes*'s Law, and not a publick Sentence of any Judge; and by the exception of uncleanneſs, allowed the Innocent party to marry another: but the Pope's Law, which prohibits it, doth it to no other end then to get the gains to his Courts,

by the Juriſdiction of Divorces, and to compel the parties, either to make uſe of his Stews, whence he gathers his common Rents, or to pay him a private *Taxa Camera* for ſuch Women as he will allow, when he hath tied him from his Wife by the Divorce; Neither doth Chriſt take the private Juriſdiction from the Husband or Wife of Divorce given by *Moſes*, but only prohibits to uſe it without a Lawful cauſe. In the ſame manner did the Laws of the *Romans* allow the ſame Juriſdiction, both to the Husband and the Wife, as appears by many examples. By the Law of *Scotland* Divorce for Adultery is allowed *à vinculo matrimonii*, and the parties may marry again: But by the Laws of *England*, the parties can neither be Divorced *à vinculo matrimonii*, nor marry again; which is touched by *Craig. Feud.* 269. *Apud* Anglos *Matrimonium ob Adulterium non dirimatur, ſed tantùm ſeparatio à Thoro & Tabula permittitur*; which is certainly clean contrary to the Law of God, and the Doctrine of Chriſt. Notwithſtanding which, our Epiſcopal Canons rather follow the *Pope* then *Chriſt*; and are ſo outragiouſly oppreſſive on Innocent parties, *Can.* 4. 7. that in all ſuch Divorces, they order Bond and Sureties to be given, not to marry again during each other's life, which is as before ſhewen a Doctrine of Devils, forbidding to marry where God hath not forbidden.

Of the Cuſtom of Proteſtants marrying with Papiſts.

There is no Religion in the World eſtabliſhed by any wiſe Legiſlator, which he deſires to perpetuate; but the chief means he takes care of to effect the ſame, is by his Law to prohibit his followers, to marry with Women of another Religion, for they both ſeduce the Fathers and the Children. And while even in their Nurſing, and before they have learnt their Mother-tongue, they will with their Milk be ſo far ſeaſon'd with Old-wives Fables, as the greateſt Doctors of truth will not often-times be able all their life after to get out again. *Moſes* as to this is very ſtrict and poſitive. *Deut.* 7. 3. Where ſpeaking of the Idolatrous Nations of the Land, ſaith, *Neither ſhalt thou make Marriages with them; thy Daughter thou ſhalt not give unto his Son, nor his Daughter ſhalt thou take unto thy Son: for they will turn away thy Son from following me, that they may ſerve other gods, ſo will the anger of the Lord be kindled againſt thee, and deſtroy thee ſuddenly.* And *Nehem.* 13. 23. It is ſaid, *In thoſe days alſo I ſaw* Jews *that had married Wives of* Aſhdod *of* Ammon, *and of* Moab, *and their Children ſpake half the ſpeech of* Aſhdod, *and could not ſpeak in the* Jews *Language, but according to the Language of each people; and I contended with them, and curſed them, and ſmote certain of them, and plucked off their Hair, and made them ſwear by God, ſaying, ye ſhall not give your Daughters unto their Sons, nor take their Daughters unto your Sons, or for your ſelves,* did

did not Solomon *King of* Iſrael *ſin by theſe things*? So doth *Mahomet* command his followers to marry only thoſe of his Religion, whom he calls True Believers, and ſaith, *It is better to marry Slaves, who are True Believers, than great Princeſſes who are Unbelievers.* So do the Popiſh Laws and Canons forbid Papiſts to marry Proteſtants, under the name of Hereticks, except with the Pope's Diſpenſation or Licenſe, which is only uſed where he ſees a fit opportunity, to put ſuch a ſnare about the Neck of a Proteſtant, as the *Philiſtines* did with their *Dalilah* about *Sampſon*, to betray and deſtroy him. So it appears, both *Jew*, *Pope*, and *Turk*, are wiſer in their generation then the Children of Light. The Papiſts make Laws, and prohibit Marriage with Proteſtants, and illegitimate their Children, to make them incapable to ſucceed to a Papiſts Inheritance. The Proteſtant ſleeps, and never makes ſo much as one Law to prohibit Marriage with Papiſts, or to make Papiſt Children incapable to ſucceed to a Proteſtant Inheritance.

CHAP. VII.

Marriage, Filiation, Aliment, and Succeſſion ought not to be judged by Ceremonial Laws.

BY the Law of the Patriarchs or *Moſes*, there were no Ceremonies inſtituted of Marriage; and the Marriage of *Abraham* to *Sarah* his firſt Wife, was no more then of *Adam* to *Eve*, *Gen.* 4. 1. *And* Adam *knew* Eve *his Wife, and ſhe conceived and bare* Cain, *and ſaid, I have gotten a Man from the Lord.* And this appears *Gen.* 20. 2. where it is ſaid, *And* Abraham *ſaid of* Sarah *his Wife, ſhe is my Siſter: And* Abimelech *King of* Gerar *ſent and took* Sarah: *But God came to* Abimelech *in a Dream by Night, and ſaid to him*, as Mr. *Selden de jur. Nat. & Gent.* 573. tranſlates the Hebrew Text, *Ecce tu morieris propter mulierem quam accepiſti; nam concubuit cum ea maritus. Behold thou ſhalt dye, for the Woman which thou haſt taken for her Male hath lain with her.* God doth not ſay he hath carried her to Church and ſhook her by the hand before a Prieſt, or took her *per verba de præſenti*, or that *Conſenſus non Concubitus facit Matrimonium*, but the contrary, that he had married her, becauſe he had lain with her. And the very ſame Marriage, without any Ceremony, doth *Abraham* likewiſe make with his ſecond Wife *Hagar*. *Gen.* 16. 3. *And* Sarah Abraham's *Wife took* Hagar *her Maid, the* Egyptian, *after* Abraham *had dwelt ten years in the Land, and gave her to her Husband* Abraham, *to be*

be his Wife: And he went in unto Hagar *and she conceived.* Here *Hagar* is made *Abraham*'s Wife, by no other Ceremony but going in unto her, and her conception thereupon. And besides going in unto her, there is no Ceremony appointed for Marriage in the whole Law of *Moses*; nor had the *Jews* any custom of carrying the Woman to Church, before a Priest, but the contrary. When they married it was in the open Air (and thought it not Lawful in any House) whence they might behold the Heavens, in memory of God's promise to *Abraham*, *Gen.* 15. 5. *And he brought him forth abroad, and said, Look now towards Heaven, and tell the Stars if thou be able to number them; and he said unto him, so shall thy Seed be.* But admit *Moses* had made as many Ceremonial Laws for Marriage, as he did for Sacrifices; admit the *Jews* had superstitiously observed as many more by their Customs and Traditions; yet were it to no purpose; for both Ceremonial Laws and Traditions are all now abolished by Christ. *Col.* 2. 14. *Blotting out the Hand-writing of Ordinances that was against us, which was contrary to us, and took it out of the way, nailing it to his Cross.* And *Math.* 15. 1. Where the *Scribes* and *Pharisees* asked Christ, *Why do thy Disciples transgress the Traditions of the Elders* v. 3. *He answer'd and said unto them, Why do you also transgress the Commandment of God by your Tradition: For God commandeth, saying, Honour thy Father and Mother: but ye say, Whosoever shall say to his Father and Mother, It is a gift by whatsoever thou mightest be profited by me, and honour not his Father and his Mother, he shall be free: Thus have ye made the Commandment of God of none effect by your Tradition.* And vers. 9. *But in vain do they worship me, teaching for Doctrines the Commandments of Men.* Here is the very same thing done by Bishops, which was done by the *Scribes* and *Pharisees*; for they on a Ceremonial Form of words used by Children, gave them liberty not to honour their Father: And the Bishops on a Ceremonial Form of words used by the reputed Father, *per verba de præsenti*, presently make the Child honour him who is not his Father, nor begat him; and if such Ceremonial Form of words be not used, and a Certificate of the Bishop thereof, then they command the Child not to honour the Father who begat him; and command the true Father to illegitimate and abdicate his Child, which was truly begotten: And this they do either by the Ceremonial Law and Canons, or Traditions of Popes. But if both Ceremonial Laws and Traditions of *Moses* and *Jews* are abolished by Christ, and by the Moral Law of God, of honouring the Father, much more are the Ceremonial Laws and Traditions of Popes and Bishops abolished by the same Moral Law. I shall only mention a word more of the abolishing of the Ceremonials, by the Testimony of the Popish Writers themselves, who though in their works they keep alive all the Ceremonials of *Moses*'s Law, whence they can make profit, yet in words and Doctrine they so far confess them abolished, that they say it were a deadly sin to use them.

Aquinas

Aquinas therefore on the Queſtion concludes; *Ceremonialia adeo ſunt evacuata, ut non ſolum ſunt mortua, ſed mortifera; Judicialia ſunt quidem mortua; quia non habent vim obligandi, non tamen ſunt mortifera; quia ſiquis Princeps in regno ſuo ordinaret illa judicialia obſervari, non peccaret, niſi forte hoc modo obſervarentur, vel obſervari mandarentur, tanquam habentia vim obligandi ex veteris legis inſtitutione; talis enim intentio obſervandi eſſet mortifera.* The Ceremonial Laws are ſo utterly void, that they are not only dead, but deadly; and the Judicials are dead but not deadly; becauſe if any Prince in his Kingdom will command thoſe judicials to be obſerved, he doth not ſin, unleſs perhaps they are obſerved, or commanded to be obſerved as obligatory, by virtue of that old *Antique* Law: for ſuch an intention to obſerve them were a deadly ſin. So agrees *Lippoman* and others. The difference between a Ceremony and a Circumſtance ſhall be ſhewen after.

Of the abſurd and ridiculous Ceremonies, on which Prieſts would have Marriage, Filiation, Aliment, and Succeſſion to depend.

The chief *Pagan* Ceremony of Marriage in old time with the *Greeks*, was to carry the Woman to the Temple with Torches.

Ac nec nupta quidem, tadaq; accepta jugali
Cur niſi ne caperes Regna paterna nothus.

And this came firſt from the Prieſts of *Priapus* and *Venus*, who as is before ſhewen in the Title of Eccleſiaſtical Laws, were the firſt inventors of all Ceremonies of Marriage, that for their own gain they might, by pretence of a Ceremonial Law, inſtituted by their falſe Gods and Goddeſſes, overthrow the Moral Law of the true God of Marriage. But to them who know the true God, and his Law, from the falſe, what doth a Torch more make a Marriage then an end of a Candle to go to bed with, or to have the validity or invalidity of the ſame, or the Filiation and Succeſſion of Children to depend on?

Amongſt the *Romans* they were married by the Prieſt, and a Gold Ring put on the Woman's finger; the like is now in uſe amongſt the Popiſt *Romans*. In the *Perſian* Marriages inſtead of a Ring, the Prieſt incircles them with a Cord, conjoynes their hands, takes a Reciprocal oath, and calls *Mahomet* to witneſs; then the *Caddi* regiſters their Names. The *Aſſyrians* never ſee the Woman untill they are married to her, (ſo neither do Princes but by Picture) and marry on a good report; and go firſt and agree with her Parents, then at an appointed time they are to meet in a Church, in a part of it deſigned for that uſe; where there is

a

a Partition with an hole in it, on one ſide the Bridegroom and his friends ſtand, on the other the Bride and her friends: The Prieſt bids the Bridegroom put his hand through the hole, and take his Bride by the hand; which no ſooner done, but her Mother and one other of her friends, being prepared with a ſharp Inſtrument, pricks his hand all over, and if he doth not pull away his hand when he is ſo pained, but ſtill holds her faſt, they hold it a ſign he will love her, if not they judge the contrary. Amongſt the *Macua's* on the River *Quizungo*, when a Maid is to be married, ſhe goes into the Wilderneſs a whole Moon every day, to bewail her Virginity, viſited of her friends, and returning home every Night, and every Morning early returning to her wild Task again; as ſoon as the new Moon appears, a great Feaſt is made, and the next day ſhe is delivered to her Husband, without any more Ceremony. *Dos Sanctos.* The *Lapponians* hold, That no Marriage which is not conſecrated by the Fire and Flint is Lawful, therefore they ſtrike a Flint on the Steel, to ſhew, That as the hidden ſparks fly out by that Union, ſo Children are propagated by the conjunction of Male and Female. *Nuptiæ olim celebrantur accipiendo Aquam, & Ignem. L. per & ib. Gl. pen. de Donat. inter virum.* The *Incutan* Prieſt makes a Marriage by joining the little fingers of the Man and Woman together, neer a fire. The *Braſilians* without any Ceremony, yet Adultery is with them death. Amongſt the *Monteſſes*, the Man and his Bride are ſet a ſtride on a Horſe, both blinded, and ſo led into a Grove, there taken down and married by their Rites; then ſet up again blinded as before, and conveyed with their company, and Muſick, and Singing to their Houſe, there taken down and had to Bed, ſtill blinded till the next morrow; in the mean while the company continue drinking. *Barclay.* In *Muſcovy* they ride to Church, they uſe a Ring and joining of Hands, ſhe knocks her Head againſt his Shoe, and he throws the lap of his Garment over her. In *Peru*, the Man marries the Woman by putting an *Ottoga* or Shoe on her Foot, if ſhe were a Maid the Shoo was of *Wool*, if a Widow of *Reeds*. The *Mexican* Prieſts married the parties by tying a corner of the Man's Gown and the Woman's Vail together, and ſo lead them to the Man's Houſe; where there was a fire ready kindled and made, the married couple walk ſeven times about the fire, and ſo they become married. In the old *Greek* Marriages, when the Bride came to her Husband's Houſe, they uſed to throw Figs on her Head, and the company to ſcramble for them: The Woman as *Lactan.* touches, was likewiſe to be ſet in the lap of *Priap.* The old *Roman* cuſtom, was by eating a piece of Barley-Cake before the Prieſt, and other Ceremonies. The *Cimbri* had a cuſtom, That ſuch as would marry, after the Marriage agreed on, they each of them pared their Nails of Fingers and Toes, and ſent the parings one to another, which, when they had mutually received; this was eſteemed a holy and firm

Marriage

Marriage, and they became Man and Wife. The *Teutonians* rounded one anothers Hair. The *Elamites* pricked one anothers finger. The *Numidians* anointed one another with ſpittle and clay. In *Rome*, the Bridegroom and Bride married not by their own proper names, but by the name of *Cajus* and *Caja*; they uſed to call themſelves by the name of *Jupiter* and *Juno*; ſo the Poet though never ſo poor a fellow, he ſays, *Eja, mi* Juno, *non decet te tam triſtem eſſe tuo* Jovi. And in *Muſcovy* the Bridegroom and Bride are called the Duke and the Dutcheſs.

The *Armenians* amongſt other Ceremonies meet at the high Altar, and lean Fore-head to Fore-head; then comes the Prieſt, and turning his back to the Altar, layes his Bible on their Heads inſtead of a Desk, a weight ſufficiently heavy, being a thick ponderous Folio; there he lets it lye till he reads the Form of Matrimony. The *Scythians* firſt touch one anothers Feet, then they ſet together their Knees, then their Hands, then their Buttocks, then their Heads, then they imbrace one another, and then 'tis a Marriage. If the Ceremonies or words of the Prieſt make Marriage, then *Nero* was, when he was married to one *Pythagoras* an Eunuch dreſſed like a Woman. And when another time he married *Sporus* an Eunuch in *Greece*, theſe muſt be Marriages: One ſaid it had been good for the World, *Nero*'s Father had been ſo married.

At *Banaras*, and amongſt other *Indians*, when a Man and a Woman is to be Married, they and a *Bramayne* or Prieſt, and a Cow with a Calf are brought together to the Rivers ſide. The Woman having a Braſs-Pot in her hand full of Water; the Prieſt receiveth a White Cloth of four Yards, and a Basket croſs bound with divers things in it; the Cloth he layeth on the back of the Cow, and then he taketh the Cow by the end of the Tail, and then he ſayes certain words, and the Man doth hold his hand by the Prieſt's hand, and the Womans hand by her Husband's hand, and all have the Cow by the Tail, and then they pour Water out of the Pot on the Cows Tail, and it runneth through all their hands, and they lave up Water with their hands, then the Prieſt ties them together by the Cloths, which done, they go round about the Cow and Calf, give ſome Money to the Poor, and their Idol; and leſt the man ſhould think himſelf married to the Cow and Calf, he gives the Cow and Calf to the Prieſt, which is more then they give to the Poor, and ſo they are Man and Wife; and whom the Cows Tail hath joined, let no Man put aſunder, which if they do, 'twere fit the Prieſt loſt his Cow and Calf. In *Cambaia*, as *Texera* reports, They have ſo great eſteem of their Cows, that a Merchant *Banyan* ſpent 10 or 12 Thouſand Dukets in the Ceremony of a Nuptial Feaſt, of marrying his Cow to his Friend's Bull, for the greater publication of it, not ſuffering it to be private in the Woods; and what were the Cow or Calf the better for all this, or who

could the ſooner know whether the Calf were the legitimate Iſſue of the married Bull, or ſome other in the Woods.

CHAP. VIII.

Marriage, Filiation, Aliment, and Succeſſion, ought only to be judged by the Moral-Law of God.

THE debate of the lawfulneſs of the Marriage of *Henry* the *Eighth* with Queen *Katherine*, having been his Brother's Wife, being in Agitation; it happen'd that *Cranmer*, (who was after Arch-Biſhop, and in time of Queen *Mary* Martyr'd,) and Dr. *Stephens*, and Dr. *Fox* met at *Waltham* one day at Dinner, where falling in diſcourſe about the caſe, the other Doctors thought the Marriage might be proved unlawful by the Civil-Law, but ſaid *Cranmer*, It may better be proved unlawful by the Law of God: And ſo it may be ſaid here, Marriage, Filiation, and Succeſſion, may be better proved, as it is in truth, lawful or unlawful, by the Moral-Law of God, then by Laws of *Moſes*, of Nations, of Emperours, of Popes, of Biſhops, of *Mahomet*, of *England*, *Scotland*, *Ireland*, or any human Laws in the whole World.

Firſt, Becauſe the Moral Law, is the Law of Nature.

Secondly, Becauſe the Law of Nature is the unqueſtionable Law of God.

Thirdly, Becauſe it is a perfect Law, and comprehends in it all the innumerable Caſes, which are impoſſible to be contained in any human writing.

Fourthly, Becauſe it is a Law univerſally given, as well to *Gentil*, as to *Jew*; and no Nation in the World exempted from the Juriſdiction of the Moral-Law.

Fifthly, Becauſe it is a Law immutable, and endureth for ever, and neither *Jew*, *Pope*, *Turk*, nor any Power in Heaven or Earth, except the Legiſlator himſelf, is able to change it.

The *Jews* have an old Tradition, That God when he Crea-

When a Jew *ſhall ſtop the* hole
Left in Heaven near the Pole.
When the Sun *is in a* Sack,
And the Stars *turn ſpots of* black.

When

When the Moon's *in* Mah'met's *ſleive,*
And a Prieſt ſhall Nature *ſhrieve;*
And her Palace turn a Grange,
Jew, Pope, *and* Turk, *her Law ſhall change.*

ted the World left a great hole in Heaven, that if any other God arrogated the glory of the Creation, the true Creator might bid him ſtop that hole firſt.

When the Moon *her head ſhall dreſs*
In the Weſtern Wilderneſs.
When in Heaven for a Sign,
Charles *his* Wain *ſhall croſs the Line.*
When the Earth *and* Water *ſhall*
Make two Globes, *and not one* Ball.
Then, Oh then! what is more ſtrange,
Nature's *God her Law ſhall change.*

Chang'd may Second-Nature be,
But no Eye ſhall ever ſee
Higheſt Nature change from Good,
Though by us not underſtood,
Yea, though none him ſee or know,
He Eternal Good will do,
Through all Forms though Nature *range,*
Nature's *God will never change.*

It will be ask't perhaps by ſome, In what Tables God hath writ the Law of Nature, concerning *Marriage*, *Filiation*, *Aliment*, and *Succeſſion*, and how it may be read? To which I Anſwer, That the Tables are of two kinds, the External, and Internal; and the Readers and Witneſſes are of two kinds, the External, and Internal; the External Tables of Marriage are expreſs'd by Chriſt, *Matth.* 19. 4. when the *Phariſees* queſtion of Divorce, whether lawful for a man to put away his Wife for every cauſe? *He Anſwer'd, and ſaid unto them, have ye not read, that he which made them at the beginning, made them Male and Female?* The Male and Female are therefore the External and viſible Tables, wherein God hath written in living *Hieroglyphicks*, or Figurations of the Sexes, his Law of Marriage. As to External Tables, of *Filiation*, Chriſt expreſſeth likewiſe the ſame, *Matth.* 18. 2. *And Jeſus called a little Child unto him, and ſet him in the midſt of them, and ſaid, Verely, I ſay unto you, Except ye be converted, and become as little Children, ye ſhall not enter into the Kingdom of Heaven. Whoſoever therefore ſhall humble himſelf as this little Child, the ſame is greateſt in the Kingdom of Heaven. And whoſo ſhall receive one ſuch little Child in my name, receiveth me. But whoſo ſhall offend*

one of theſe little ones, it were better for him that a Milſtone were hanged about his Neck, and that he were drowned in the depth of the Sea. As to the External Tables of *Aliment*, they are expreſſed in his own Mother. *Luke* 11. 27. *Bleſſed is the Womb that bare thee, and the Paps that thou haſt ſucked.* The Paps therefore wonderfully prepared to overflow with Milk, juſt againſt the time the Child is to be born, are External Tables, wherein God hath written to Innocents, in letters as white as Snow; that the Mother ought to aliment them with the Milks of her Breaſts; And when he hath made the Teeth to break through the Coral Gums, he writes in thoſe Ivory Tables, That the Father ought to provide ſtronger meat for the Child. The Internal Tables are expreſſed by *Paul*, 2 *Cor.* 3. 3. *Written not with Ink, but with the Spirit of the living God, not in Tables of Stone, but in the fleſhly Tables of the Heart.* The External Readers and Witneſſes are all Creatures, as appears, *Job* 12. 7. *But ask now the Beaſts, and they ſhall teach thee, and the Fowls of the Air, and they ſhall tell thee; or ſpeak to the Earth, and it ſhall teach thee, and the Fiſhes of the Sea and they ſhall declare unto thee.* Go then and ask the Fowls of the Air concerning *Marriage*, *Filiation*, *Aliment* and *Succeſſion*, they will ſhew thee their Mateing, their Pairing, keeping true Wedlock, their private retirement to ſecret places, their holes, their Caves, their Neſts they build for their young, their Males and Females who procreated them, and not the Biſhops to be Judges to which they belong; their Grand-mother Earth their dry-Nurſe, the Sea, their wet-Nurſe, Proviſion for them, all their feeding, their ſucking their young, their teaching them when able, go to their Grand-mother and take their Diet with her, and ſuch of them as have Propriety in Goods and Chattels, Tenements and Hæreditaments, as Bees, Ants, and Squirrels, leaving as they die their Hives and Honey-Hills, and Corn-Holes, and Nuts, to their Deſcendents, to be their Succeſſors. The Internal Readers and Witneſſes in Man, are the Divine faculties of the Soul, Senſe, and Reaſon, one doth Teſtifie the Fact, the other the Law. The Internal Judg of the Probation of both, is the Conſcience. The Laws which they read and teſtifie are written in the Internal Tables of the Heart, Chriſt expreſſeth the firſt, concerning Marriage, in the foreſighted Text, *Matth.* 19. 5. *For this cauſe ſhall a man leave Father and Mother, and they two ſhall be one fleſh.* Concerning *Filiation*, the Law of natural affection, which is writ in the heart of the Father, is mention'd, *Pſal.* 103. 13. *As the Father pitieth his Children: ſo the Lord pitieth them that fear him.* And the Law of natural affection writ in the heart of the Mother, is mention'd, *Iſa.* 49. 15. *Can a Woman forget her ſucking Child, that ſhe ſhould not have compaſſion on the Son of her Womb?* As to the Law of *Aliment* written in the heart of the Father, it is mention'd, *Luke* 11. 11. *If a Son ſhall ask bread of any of you that*

is

is a Father, will he give him a ſtone? or if he ask a Fiſh, will he give him a Serpent? or if he ſhall ask an Egg, will he offer him a Scorpion. Laſtly, as to the Law of *Succeſſion* written in the heart of the Father, whereby all natural Sons ſucceeded, either to the right of *Primogeniture*, or *Filial Portions*; the ſame runs through all the examples of *Jews* in Scripture, and of *Gentiles* in Hiſtories.

This great Law of Nature is acknowledged to be written in the Tables of the Heart, by the Scripture it ſelf. *Rom.* 2. 14. *The Gentiles who have not the Law, do by Nature the things contained in the Law: theſe having not the Law are a Law unto themſelves, which ſhew the work of the Law written in their Hearts; their Conſcience alſo bearing witneſs, and their thoughts, mean while, accuſing or excuſing one another.* So *Rom.* 1. 26. *Paul* ſaith, *Women did ſin againſt Nature*: Yet was there no Law of *Moſes*, nor any Law written by God or Man, in Paper and Ink, which particularly prohibited them, but only that of Nature. And that this Law of Nature can neither be changed, nor aboliſhed, or diſpenſed with by any humane power, is agreed by Philoſophers, Poets, Divines, Common and Civil Lawyers, and all others, except Popes, who exalt themſelves above God, Chriſt, and Nature, and all that is called God. *Lex Naturæ, nec tolli, nec abrogari poteſt*, ſaith *Tul. de leg.* 205.

Dionyſius, when his Mother being an old Woman, deſired of him he would get her to be married to a young Man: He anſwer'd, Kings might overthrow Civil Laws, but could not the Laws of Nature. *Lex humana derivari debet à lege Dei, ſed eam perfectè perſequi non poteſt.* Aquin. Auguſtin, *In humanis Legibus nihil eſt juſtum niſi ab æterna lege dirivatur. Honeſta & turpia naturâ judicanda ſunt.* Tul. de leg. 169. 6. *Hobart's* Reports. 120. *It is acknowledged, that all cuſtoms and Acts of Parliament againſt the Laws of Nature, are void; for* Lex naturæ eſt lex legum, *the Law of Nature is the Law of God, and poſitive Law, if contrary or variant from it, is the Law of Man.*

Telverton, Juſtice, ſaid, *When a new Caſe comes, for which there is no poſitive Law before; we do as the* Sophoniſts *and* Civilians, *reſort to the Law of Nature, which is the reaſon and ground of all Laws, and of that which is moſt beneficial for the Common-wealth make a Law*, quod non negatur. 8 E. 4. *fo.* 12. *Claudius* juſtly reprehends *Tribonian*, That in compiling the Inſtitutes of the Civil Law, he omitted the Law of Nature. *de Ferrariis.* 552. But the flattering Courtier had he done ſo, knew he muſt have prefixed another *imperatoriam Majeſtatem*; and laid other manner of principles then *placitum Principis* to be the original of right: he could not have then divided Title and Juriſdiction with his Maſter. And *Jupiter* Proclaiming that *Deus eſt imperator in Cœlis, & Imperator eſt Deus in Terris.* 'Tis well he claims only the Earth, for now the Pope claims, not only *plenitudinem Terræ*, but Heaven too, to ſell to his Cuſtomers.

Yet

Yet the Civil Law acknowledges the Law of Nature immutable: And this point of Marriage and Succeſſion, ſaith, *Lege duodecim tabularum benè humano generi proſpectum eſt, quæ unam conſonantiam tam in maribus quàm in fœminis Legitimis, & in eorum ſucceſſionibus, necnon in liberis obſervandam eſſe exiſtimavit, nullo diſcrimine in ſucceſſionibus habito, cum natura utrumq; corpus ediderit, ut maneat ſuis vicibus immortale & alterum alterius auxilio egeat, ut uno ſemoto & alterum corrumpatur; ſed poſteritas dum inimica utitur ſubtilitate, non piam induxit differentiam &c. Cod. lib. 6. tit. 47. l. lege.* By the Law of the Twelve Tables, it is well provided for Mankind, that there ſhould be the ſame rule of Succeſſions for Males, and Females, and in Children, and no difference to be made in their Succeſſions; ſeeing Nature hath brought forth the Bodies of both, that they might continue in their courſe immortal, and one need help of another, and one taken away, the other might be deſtroyed. But later Ages, while they uſe ſo much ſubtilty, have made an impious difference, &c. Which is intended between Males and Females in Succeſſion, when Lands are Intailed to Heirs Males. By which appears what opinion the Civil Law hath of Succeſſions to ſuch Intails to be impious, becauſe contrary to the Law of Nature. The Civil Law likewiſe acknowledgeth, that *Jura Sanguinis nullo jure Civili dirimi poſſunt*; and again it follows the Law of Nature in Legitimation, *Si mulier quinquagenaria partum ediderit, an debet hujuſmodi ſoboles ſuo patri ſuccedere, & hæreditatem ejus nanciſci à Cæſariano advocato interrogati ſumus, & ſancimus, Licet mirabilis hujuſmodi partus inveniatur, & raro contingat; nihil tamen eorum quæ probabiliter à natura naſcuntur eſſe producta reſpui; ſed omne jus quod ex quacunque Lege liberis præſtitum eſt, hoc merum atque immutilatum hujuſmodi filiis vel filiabus ſervari in omnibus ſucceſſionibus ſive ex teſtamento, ſive ab inteſtato. Et ſummatim non abſimiles aliis fiant in quos ſimiles natura efficit. Cod. lib. 6. tit. 47. ſi major.* A queſtion is propoſed us by the Advocate of *Cæſar*, if a Woman above fifty bring forth a Child, whether ſuch Iſſue ſhall be Succeſſor to the Father in the whole inheritance? And we Decree, though it be an admirable Caſe, and rarely happens, yet we ought not to reject any thing, known to be probably produced by Nature, but all the right which by any Law is given to Children, the ſame ought to be wholly and intirely performed to ſuch Sons and Daughters in all Succeſſions, whether to a Teſtament or an Inteſtate. And in ſhort, that they ought not to be made unlike other Children in Succeſſions, whom Nature hath made like. Hence it appears, that the Civil Law wills the Succeſſion of Children ſhall be according to the Law of Nature, and not according to any Canon Law, or Law made by the Prieſt. *Natura duce errare nullo modo poteſt. Tul. 1. de leg. Cum vero parentibus rediti, deinde Magiſtris traditi ſumus tum ita variis imbuimur erroribus, ut vanitati veritas, & opinioni confirmatæ natura ipſa cedit. 3. Tuſc.* Where nature is our Guide

Guide, it is impoſſible to err, but when we fall into the hands of Parents, and are delivered to Shool-Maſters; we are then infected with ſo many Errors, that all truth gives place to vanity, and Nature it ſelf yields to opinion accuſtomed. To fight againſt Nature, is like Giants to fight againſt God, *Cato major.*

Of the Final Cauſes of Marriage by the Law of God and Nature.

The Final cauſes of Marriage, which is the Ordinance of God, and not of Man, are not to fill Prieſts pockets with money, or to ſatisfie their inſatiable Covetouſneſs, and Ambition; to ſet their Foot on the Necks of Emperours and Kings, in their Legitimations, and Succeſſions; and thereby to diſpoſe of the Kingdoms of Princes, and the Liberty, Propriety, and Goods of the Subjects, at their Arbitrary will and pleaſure. But the Final cauſes of Marriage by the Law of God and Nature, are three. 1. Procreation of Children. 2. That Man might have an Help-meet for him, there being many neceſſities, eſpecially in time of ſickneſs, wherein Man cannot be without the help of a Woman. 3. To make his life more pleaſant and delightful, *Triſtis ſine conjuge lectus.* As for the firſt part, which is the greateſt and chiefeſt end of Marriage, namely procreation of Children; without which the World cannot be continued. To be the ſhorter I ſhall only mention one Poet as follows.

Providet ille maximus mundi Parens,
Cùm tam rapaces cerneret fati minas,
Ut damna ſemper ſobole repararet nova,
Excedat, agedum, rebus humanis Venus,
Quæ ſupplet ac reſtituit exhauſtum genus
Orbis jacebit ſqualido turpis ſitu,
Vacuum ſine ullis claſſibus ſtabit mare,
Aleſq; Cælo deerit, & ſilvis fera,
Solis & Aer pervius ventis erit. Sen. in Hippol.

Fates cruel Threats, when the great Parent ſaw,
Againſt his Creatures, by as great a Law
He then Inacted all thoſe, whom it ſlew,
Sould by new Births perpetually renew.
Should *Venus* leaſe, and ſhould not ſtill reſtore
With freſh Supplies Natures exhauſted ſtore,

On

On ſqualid Earth no Beauty would remain,
No gallant Fleets would dance upon the Main,
No Deer in Woods, no Birds would be in Skie:
Winds only through ſad Air would ſighing flie.

There could be neither King, nor Parliament, nor People, nor Governours, nor Governed; neither could the Proteſtant Religion defend it ſelf againſt *Pope* or *Turk*, without Marriage; for though it be *Apocrypha*, it is truly ſaid, *Eſdras* 4. 15. *Women have born the King, and all the People that bear rule by Sea or Land.*

The End of the Firſt Book.

THE

CONTENTS

Of the Second Book.

BY what Judg Marriage, Filiation, Aliment, *and* Succeſſion, *ought not, and ought to be Judged.*

Of the Five Competitors, to be Judges of Martiage, Filiation, Aliment, *and* Succeſſion; (1.) *The Biſhop.* (2) *The Magiſtrate.* (3.) *The Souldier.* (4) *The Parents.* (5.) *The King and Parliament.* 137

Exceptions againſt Biſhops being Judges, in reference to the Legiſlative. ib.

Except. 1. *They aſſume to be Judges,* Jure Divino, *without a Sign of Miſſion from God, which overthrows the Legiſlative Power of the King and Parliament.* ib.

Of the Sign of Miſſion required by the Grand Seignior, *from* Sabatai Sevi, *a counterfeit* Jewiſh *Meſſiah.* 139

2. *They have falſely tranſlated the Scripture, in all words relating to Marriage.* 142

They have falſely tranſlated Iſh, Iſha, Zona, Kadeſh, Philiegeſh, Παλλακὴ, *Husband, Wife, Harlot, Concubine,* &c. 142

No ſuch as word as Concubine *in the whole Original Scripture.* ib.

They have falſely tranſlated the Seventh Commandment Lo Tinaph, *to be Adultery.* 145

They have falſely tranſlated Πορνεία *to be Fornication.* ib.

They have falſely tranſlated the Tenth Commandment, in the words Wife, Man-Servant, Maid-Servant. 146

They have falsely translated Mamzer *in the Old, and* Nothus *in the New Testament, Bastard.*

Wherein are noted the Errors of Coke, Skene, *and* Grotius, *in following Episcopal and other Popish translations.* ib.

Of the absurdity of Common and Ecclesiastical Lawyers, who make the Child born, without the Ceremonies of a Priest and Temple, no Sib, Kin, or of Blood, to the Father who begot, or the Mother who bare him. 154, 155

Further Reasons shewn, that they have falsely translated Mamzer *in the Old, and* Nothus *in the New Testament, Bastard.* 156

No such word or thing as Bastard in the whole Original Scripture, or amongst the Hebrews, Greeks, *or* Romans.

3. *They have corrupted the Press, both as to Scripture, and Acts of Parliament, and interdict Protestants to Print against, or answer Papists.* 162

A Counterfeit Act of Parliament Printed by Bishops against Protestants, and the true suppress. 163

Mischiefs which follow the Interdiction of the Press to Protestants. 164, 165

4. *By pretence of giving the King the name of Supremacy, they have taken the thing to themselves.* 167

5. *By pretence of giving the King Supremacy by the Ceremonies of the Coronation, they take it from him to themselves.* 169

David *Anointed and Crowned by his Parliament, and not by the Priest.* 173

6. *They assume in all matters concerning* Marriage, Filiation, Aliment, *and* Succession, *to be above Appeal to the King's Courts.* 175

Of the abominable Judgment pass'd by the Common Law Judges in Kennes *Case,* Coke lib. 7. 42. *whereby they gave away the Supremacy of the King's Courts to Bishops, and made them in all causes Matrimonial, subject to no Appeal.* ib.

Excepti-

Exceptions againſt Biſhops being Judges, in reference to the Judicial Power. 180

1. *They are prohibited by the example of Chriſt, to Judg* Marriage, Filiation, Aliment, *or* Succeſſion. ib.
2. *They are totally ignorant of the Fact, and were never Educated in the Laws by which they pretend to Judg Marriage.* 181
3. *They Judg by a Chancellour, and not in Perſon.*
4. *They have Plurality of Offices, and more than they are able to ſerve, yet will be Judges of Marriage beſides.* ib.
5. *They are ambidextrous and amphibious Judges.* 182
6. *They Judg Marriage by pretended Canons and Laws made by Biſhops, without aſſent of Parliament.* ib. & 183
7. *They take to themſelves Fines and Penalties of their own Judgments.* 184
8. *They Licence, Diſpence, and Pardon all Crimes within their pretended Juriſdiction for Money.*
9. *They cannot be known whether Proteſtants or Papiſts, if Biſhops.* 185
10. *They Judg by Fictions and not by Truth.*
11. *They Judg by Ceremonies and not by Circumſtances.*

Of the manifold miſchiefs from the Judgment of Marriage by the Ceremonies of a Prieſt and a Temple. 192

1. *It compels to enter into an indiſſoluble Obligation, before the Parties can know each other, whether they are fit for Marriage or no.* 193
2. *It give the Biſhop the Monopoly of all Women and their Goods.* 196
3. *It gives him the Monopoly of Succeſſions, both in private Families and Kingdoms.* 197
4. *It gives him power to Judg of* Marriage, Filiation, *and* Succeſſion, *by Fictions.* ib.
5. *It cauſeth in the Rich Exceſs and Vanity of Apparel, Tilting, Turneaments, Masking, Gluttony, Riot and Drunkenneſs.* 198

6. *It undoeth the Poor in their Marriages.* 199
7. *It causeth Immodesty in Brides, wanton Songs and Ceremonies, promiscuous Dancing, and corruption of Youth.* 200
8. *It exposeth to publick view what God hath commanded to be secret.* 201
9. *It causeth Community of Women, Community of Children, Fornication, Adultery, Stews, Brothels, and the dissemination of most contagious and deadly Diseases amongst the people.* ib.
10. *It hath caused Prostitution of Brides to Priests, Lords, Guests, and others.* 205
11. *It hath caused Consecration of Incest, Whores, Sodomites, to attend the Service of the Priests, and the Temples.* ib.
12. *It hath caused the Consecration and Adoration of* Priapus, Baal Peor, Venus, Adonis, Flora, *and the first defiling of the Virgin World with Whoredom and Idolatry.* 207
13. *It first destroyed in the World the Omnipresential Worship of God.* 208
Prayers in Temples and Synagogues, except amongst persons agreed, prohibited by Christ, and why.
A Poem on the Omnipresential Worship of God, and therein of Marriages in Temples. 223
15. *It caused the bloody Sacrifices of Virgins, Children, and Indian Wives.* 229
16. *It lays punishments on lawful Child births, and destroys Millions of Infants.* 234
17. *It caused the* Parisian *Massacre, wherein were an Hundred Thousand Protestants slain.* 240
Why the Ottoman *Emperors Marry not by a Priest, or in a Temple, and of the bloody Murders ensued of the Sons of* Solyman *the Magnificent, by his breaking the Custom, and his being drawn by* Roxolana *to Marry her by a Priest.* 245
12. *Bishops proceed to Judgment in the unknown Language of Law Latine.* 254
13. *They Judge for Fees, where of the inconveniences following*

maime-

maintenance of Judges, and Officers by Fees, and not by Salary.

Exceptions against Bishops being Judges, in reference to the Executive Power.

1. *They begin the Suit with Execution.* 263
2. *They Pledg before Summons, Summon before Copy, Copy before Oath, Punish before Contumacy, Judg before Hearing, and Arrest before Judgment, all which preposteration begins with Execution.* 268

Of the Inconveniences ensue by Quorums, *or more Judges than one in a Court.* 276

A Satyr *against the cruel Preposterations above mention'd, both in Ecclesiastical and Temporal Courts.*

Of Summons to answer before a Copy given, of what is required to be answer'd. 286

Of giving a Copy before an Oath of no Calumny. 288

Of the multitude of Fictions and Falsities ensue in Chancery and Common Law, by neglecting the Oath of no Calumny. ib. ad 305

Of Judgment before Hearing.

Part of a Satyr *translated out of* Seneca, *p.* 685. *on the Scottish Emperor* Claudius, *who used to Sentence before Hearing.* 305

An enumeration of divers Forms of Judicial Proceeding, wherein People are Condemned before Hearing.

1. *By repelling men from the Truth, and merit of the Cause, and compelling them to make their allegations in Formalities and Fictions.* 306

A Dispute between two famous Judges, Fitzherbert, *and* Brook, 14 H. 8. 25. *concerning Truth and Good Sentence, and Formality and Fiction, in Judicial Proceeding.* 306

2. *By compelling to Original Writs at Common Law, and not serving the Party with a Copy of the Declaration without them,* 312

Mischiefs

Miſchiefs of Original Writs. 313
3. *By compelling to the Writ of* Subpœna *in* Chancery, *and not ſerving the Party with a Copy of the Bill without it.*
Miſchiefs of Writs of Subpœna.
4 *By the* Capias ut lagatum, *and* Excommunicato capiendo.
A Satyr *on a Papiſt and a Proteſtant, Impriſon'd, one on an Outlawry, the other on an Excommunication, againſt Impriſonment before Hearing and Judgment.* 329
A Digreſſion concerning the danger of the Three Kingdoms, Condemning one another without Hearing, by reaſon of the Non-Union of their three Parliaments in one Houſe.
Of the Fatal Dangers attending a Non-Union, and the ineſtimable Benefits of the contrary. 335
Of matters requiſite to perfect an Union.
An Elegy on the ill effects of Excommunication of Proteſtants by Proteſtants, cauſing a Diſunion in the late unhappy Civil Wars. 343
5. *By Excommunication it ſelf.*
The Form of the Jewiſh *Excommunication.* 345
The Form of the Greek *Excommunication againſt Thieves.* 347
The Form of the Popes Excommunication againſt Queen Elizabeth.
All Forms of Excommunication wicked and Anti-Chriſtian. 348
Of the ſtrange Cheats and Superſtition in Excommunications. 352
Of the damnable miſchiefs ariſe to Chriſtian Princes and States, by tollerating Popes or Prelates to Excommunicate, without a Sign of Miſſion from God. 362
All Excommunication, Curſes, and Deliveries to Satan, by Biſhops or Prieſts, without a Sign of Miſſion from God, if Malefice follow, ought to be puniſh'd as Witchcraft, if not as a Cheat. 381
A Satyr *in defiance of all Excommunication without a Sign of Miſſion from God.* 388

An

The Contents of the Second Book.

An Epode on Proteſtants Excommunicated by Papiſts.
Conſiderations concerning a True and Falſe Teſt between Papiſt and Proteſtant.
6. *By Biſhops condemning Proteſtants of Hereſie by the Four firſt General Councils.*

The other Exceptions againſt Judicial Forms, and what was intended concerning the other Competitor-Judges, I am enforced to break off abruptly by Diſturbances at the Preſs.

Miſchiefs of Original Writs. 313
3. *By compelling to the Writ of* Subpœna *in* Chancery, *and not ſerving the Party with a Copy of the Bill without it.*
Miſchiefs of Writs of Subpœna.
4. *By the* Capias ut lagatum, *and* Excommunicato capiendo.
A Satyr *on a Papiſt and a Proteſtant, Impriſon'd, one on an Outlawry, the other on an Excommunication, againſt Impriſonment before Hearing and Judgment.* 329
A Digreſſion concerning the danger of the Three Kingdoms, Condemning one another without Hearing, by reaſon of the Non-Union of their three Parliaments in one Houſe.
Of the Fatal Dangers attending a Non-Union, and the ineſtimable Benefits of the contrary. 335
Of matters requiſite to perfect an Union.
An Elegy on the ill effects of Excommunication of Proteſtants by Proteſtants, cauſing a Diſunion in the late unhappy Civil Wars. 343
5. *By Excommunication it ſelf.*
The Form of the Jewiſh *Excommunication.* 345
The Form of the Greek *Excommunication againſt Thieves.* 347
The Form of the Popes Excommunication againſt Queen Elizabeth.
All Forms of Excommunication wicked and Anti-Chriſtian. 348
Of the ſtrange Cheats and Superſtition in Excommunications. 352
Of the damnable miſchiefs ariſe to Chriſtian Princes and States, by tollerating Popes or Prelates to Excommunicate, without a Sign of Miſſion from God. 362
All Excommunication, Curſes, and Deliveries to Satan, by Biſhops or Prieſts, without a Sign of Miſſion from God, if Maleſice follow, ought to be puniſh'd as Witchcraft, if not as a Cheat. 381
A Satyr *in defiance of all Excommunication without a Sign of Miſſion from God.* 388

An

The Contents of the Second Book.

An Epode on Proteſtants Excommunicated by Papiſts.
Conſiderations concerning a True and Falſe Teſt between Papiſt and Proteſtant.
6. *By Biſhops condemning Proteſtants of Hereſie by the Four firſt General Councils.*

The other Exceptions againſt Judicial Forms, and what was intended concerning the other Competitor-Judges, I am enforced to break off abruptly by Diſturbances at the Preſs.

Lib. II.

Of the Judg of Marriage, Filiation, Aliment, and Succeſſion.

CHAP. I.

Of the Five Competitors to be Judges of Marriage, Filiation, Aliment, and Succeſſion. (1.) The Biſhop. (2.) The Magiſtrate. (3.) The Soldiers. (4.) The Parents. (5.) The King and Parliament.

HAving before ſhewn unanſwerable exceptions againſt the Eccleſiaſtical Laws, by which Biſhops pretend to judg; I ſhall now propoſe exceptions Declinatory, of the Authority and Juriſdiction uſurped by them, and likewiſe of their Perſonal diſabilities and incapacities, to be Judges of the matters in queſtion, all which are (1.) In reference to the Legiſlative. (2.) The Judicial. (3.) The Executive or Military Power all uſurped or abuſed by them.

Exceptions againſt Biſhops being Judges, in reference to the Legiſlative.

They aſſume to be Judges, Jure Divino, *without a Sign of Miſſion from God, which overthrows the Legiſlative Power of King and Parliament.*

For they aſſume to be Angels and Meſſengers of God, Embaſſadors of Chriſt, and Succeſſors by his laſt Will and Teſtament, of the whole Power of Judgment given to the Son; yet do they ſhew no ſign of Miſſion from God, no letters of Credence from Chriſt, nor any letters of Probat, that they were nominated either Executors or Legatees in any ſuch

Teſtament, or in the Teſtament of any Executor or Apoſtle of Chriſt; or in the Teſtament of any Executor of ſuch Executors. But they follow therein the old Cheat of all the old *Pagan* Legiſlators. Thus did the old *Ægyptian* Prieſts call themſelves Angels of God, and were ſo called by the People; and *Menes*, their moſt ancient Law-giver, recorded in the World, alledged his Laws received from *Mercury* the *Pagan Michael* or the Arch-Angel of the *Meſſages* of the gods. *Minos* the Legiſlator of *Creet*, to ſoar a pitch above the Authority of the Laws of *Menes*, attributed his to *Jupiter* himſelf, and alledged to the People, That the great God was his Gueſt in his Houſe for the ſpace of Nine Years together, and Dined and Supped with him every day, till he had indicted to him thoſe Divine Laws, and he was able to write them for Publication. Thus did the *Pope* over-top that Law which was given by the diſpoſition of Angels, by pretence of Inſpiration of the *Holy Ghoſt*, whom he ſent to the Council of *Trent* in a Cloak-bag. And *Mahomet* to out-do the *Pope*, made himſelf the *Holy-Ghoſt*, affirming himſelf to be the Comforter promiſed by Chriſt. *John* 14. 25, 26. *Theſe things have I ſpoken unto you, being yet preſent with you: but the Comforter, which is the Holy-Ghoſt, whom the Father will ſend in my name, he ſhall teach you all things, and bring all things to your remembrance, whatſoever I have ſaid unto you.* Now the Biſhops pretend to a greater Power from Chriſt then *Mahomet*, he only in this claims Power to Teach, but the Biſhops claim Power *Jure Divino* from Chriſt, to Judg the World: yet whether they ſhew any better Commiſſion or Miſſion then he, *Jure Divino*, let any judg.

Prieſts and Prophets at mortal Feud.

The gift of Prophecy, if true, goes not by Deſcent; thoſe who therefore pretend to be Succeſſors, and call themſelves Prieſts, are fain to counterfeit either a Law or Gift from the Predeceſſor's Prophet, whereby the Prieſthood was made Hereditary or Succeſſive in that manner by which they take it, yet both the old Prophet, and the new Prieſt, a newer Prophet pretending a newer Revelation or Miſſion, again over-reaches and deceives the deceivers, which is the reaſon that Prieſts pretending to be Hereditary or Succeſſive, are always at mortal Feud with new Prophets, true or falſe; the former who have no pretence but Poſſeſſion or a Deſcent caſt, and a Poſſeſſary Action dreading to be Evicted by a Writ of right Patent under the Great Seal of *Miſſion*, either of a true or counterfeit Miracle. But ſuch patches of Eccleſiaſtical Policy are now worn ſo thread-bare and full of holes, that ſince Grammar-Schools, Boys themſelves, peep thorough and laugh to ſpie the Devil hid under the Pall of pretended *Jure Divino*, without a Sign of Miſſion. Epiſcopacy muſt now therefore change the Scene, and ſhew a Sign on the open Theater, if they pretend from God, and their Letters of *Credence*, if they pretend from Chriſt; and the *Probat* of the Will and Teſtament, (*hic in curia probat,*) if they pretend to be Succeſſors Teſtamentary, or they

are

are likely to find none but Papiſts or Noncompoſſes to give them implicit Faith, for the *Turk* himſelf is not now ſo groſs witted, as to admit either Prieſt or Prophet, *Jure Divino*, without a Sign of Miſſion, as is well known to all verſed in thoſe Hiſtories, and may appear in the example following.

Of the Sign of Miſſion required by the Grand Seignior *of* Sabatai Sevi *a counterfeit* Jewiſh *Meſſiah.*

Sabatai Sevi, had his Deſign ſpeeded, would have been Competitor with the Grand *Signior* and all the Emperors and Kings of the Nations, for their Dominions, on the Title of a Meſſiah, who is *Jure Divino* above all Earthly Princes; and they ſhould have felt the effect of a *Jewiſh* Excommunication to have been depoſed from their Thrones, could he but have ſhewn a Divine Patent for the doing, as his deluded followers firmly beleived he would do.

He was the Son of *Mordecai Sevi* an inhabitant of *Smyrna*, who gained his living by being a Broker to an *Engliſh* Merchant in that place; but his Son being addicted to ſtudy, became to be a notable proficient in the *Hebrew* Tongue, Divinity, and Metaphyſics; and vented ſuch new Doctrine in the Law of the *Jews*, under the notion of being their *Meſſiah*, ſo long expected; as made the *Jews* forſake their Trades, and Negotiations whereby they lived; and to venture all on the hopes of their purchaſes in the new Kingdom of their *Meſſiah*: Yet notwithſtanding his Diſciples were ſo numerous, as to be almoſt innumerable, there was one *Samuel Penya* a *Jew* in *Smyrna* of good Eſtate and Reputation, ſo much oppoſed him by arguments that he ſhewed not the ſignes of Miſſion of the *Meſſiah*, according to Scripture and the Doctrine of the Rabbi's; that he raiſed ſuch a Tumult againſt him, as drove him out of the *Synagogue* with danger of his life. Yet being ſeconded by the Devil, this could not cruſh his Ambitious deſign: for within a while after, his Enemy *Penya*'s Family were poſſeſs'd, and his Daughter Propheſied, and fell into ſtrange extaſies: And this was not done only in his Houſe, but four hundred Men and Women more, likewiſe Propheſied of the growing Kingdom of *Sabatai*; and young Infants who could ſcarce ſtammer out a ſyllable to their Mothers, repeat and pronounce plainly the name of *Sabatai* the *Meſſiah*, and Son of God; and voices were heard to ſound from their Stomach and Entrails; and thoſe of riper years fell into Trances, foamed at Mouth, and by inſpiration from the Devil, recounted the future Proſperity and deliverance of the *Iſraelites*; their Viſions of the *Lyon* of *Judah*, and the Triumph of *Sabatai*; which made *Penya* Recant and turn Convert, and Preach more for him then

ever he Preached against him. The noise of which Conversion of this persecuting *Saul* to the faith, hugely increased the conflux of multitudes to increase the Power of the Messiah, and nothing wanted now but that *Sabatai* should shew some Miracle for a Sign of his Mission to so great a multitude of strangers, who had not yet seen or heard any, besides the Inspirations which horribly puzled *Sabatai*, though the imagination of the People was so vitiated, that any *Leigerdemane*-Trick would have pass'd with them for an high Miracle. There happen'd an occasion wherein *Sabatai* was to appear in behalf of his Subjects before the *Cadi* or Judg of the City, to demand ease and releif against some oppressions which greived them, it was thought necessary the Miracle should appear now or never, when *Sabatai* appearing with a formal and Pharisaical Gravity which he had starcht on, some on the sudden avouched to see a Pillar of Fire between him and the *Cadi*, which report presently run through the whole Room, and some who strongly fancied, vowed and swore they saw it; the alarm of the Miracle ran likewise as speedily through those in the outer-yard, and was likewise received at home by Wives and Children in a moment, and the then Faith of this Miracle was so far rooted, that all those who question'd or beleived it not, were called *Kophrim*, Infidels or Heritics, liable to the censure of Excommunication, with whom it was not lawful, as much as to eat; having thus setled the opinion of his Sign of Mission, he designs for the *Jews* in *Constantinople*, and privately ships himself in a *Turkish Saick* in the Month of *January*, 1666. and the Wind being *Northerly*, he was detained Thirty-Nine Days in his Voyage, so little command had the Messiah over the Sea and Wind, at length he gets sight of *Constantinople*, the Great *Vizier* being then there, and not yet departed on his expedition for *Candia*, who having heard some rumors of this man, sent two Boats, whilst the *Saick* was detained by contrary Winds, with command to bring him Prisoner to the Port; where being brought, he was immediately clapt into the worst Dungeon in the Town, where having remained two Months, when the *Vizier* being designed for *Candia*, and seeing the mighty conflux of People to him notwithstanding in his Dungeon, and that the *Jews* at *Constantinople* were grown as mad to set up his Dominion, as all the rest, thought it not safe to leave him in the Imperial City, whilst the Grand *Seignior* and himself should be both absent, he causes him therefore to be removed to the Castle of *Abydos*, being of *Europe* side of the *Hellespont*, opposite to *Sestos*. After he had been there a considerable time, the noise of him flies louder to the ears of the Grand *Seignior*, and he sends a *Chiaux* or Messenger to bring speedily *Sabatai* to *Adrianople*, where he then was, whither he was brought accordingly; and being demanded several questions in *Turkish* by the Grand *Seignior*, he desired a Doctor of Physick, who had from a

Jew.

Jew turn'd *Turk*, to be his Interpreter, which was granted him, but not without ſome reflexion of the ſtanders-by. *That had he been the Meſſiah or Son of God he would not have wanted Languages.* Being therefore come to make Anſwer for himſelf in that way he could, the Grand *Seignior* demanded a ſign of his Miſſion to be ſhewn by him of his *Meſſiah-ſhip*, and would admit no other but a Miracle of his own choice, which was, *That* Sabatai *ſhould be ſtript naked, and ſet as a mark to his Archers, if the Arrows paſſed not through his Body, but his skin was Armour of Proof, then would he beleive him to be the Meſſiah.* Here the Devil forſook *Sabatai* as he uſeth to do Witches, when brought before the Magiſtrate, who beareth the Sword; for the power of the Sword being a ſign of Miſſion to it ſelf, in regard the Powers that are, are ordained by God, and leſſer Powers are commanded to be ſubject to the greater. The Power of the Magiſtrate may be greater then ſuch petty Dæmons, as can only do ſuch Ape-tricks as Inſpirations or Witchcraft; or if it is the roaring Lion himſelf, he may perhaps be afraid to adventure on ſo many Troops of Hunters as the Magiſtrate can command; and the Evil Spirit may not be in ſo high a degree Incorporeal, as not to be liable to Corporeal-Force: but whether he be or be not, 'tis certain his Inſtruments, *Sabatais*, Magicians and Witches are; and they are therefore by the Magiſtrate to be compell'd to ſhew a ſign of Miſſion, as *Eliſha* did, to call Fire from Heaven, which can protect them; or the like againſt the Sword given by God to the Magiſtrate, or elſe it is the duty of the Magiſtrate to execute Juſtice upon them. *Sabatai* therefore knowing he had no Spirit of God to protect him againſt the Sword of God, in the hand of a Power, to the dreadful demand of ſuch a ſign of Miſſion, diſclaimed all his Titles to Kingdoms and Governments, and humbly alledged, that he was a poor *Cocham* and a *Jew* as others were, and had nothing of Privileg or Virtue above the reſt: The Grand *Seignior* notwithſtanding not wholy ſatisfied with this plain confeſſion, declared, *That having given publick Scandal to the Profeſſors of the* Mahometan *Religion, and done Diſhonour to his Sovereign Authority, by pretending to draw ſuch a conſiderable portion from him under the pretence of the Kingdom of a Meſſiah, as* Palæſtin; *his Treaſon and Crime was not to be expiated by any other means, then by a Converſion to the* Mahometan *Faith, which if he refuſed to do, the Stake was ready at the Gate of the* Seraglio *to Impale him.* *Sabatai* with much feigned cheerfulneſs replyed, *That he was contented to turn* Turk, *and that he did it not of force, but of choice; and having been a long time deſirous of ſo glorious a Profeſſion, he eſteemed himſelf much honour'd that he had the opportunity to own it in the Preſence of the Grand* Seignior. *Hiſt. Three Impoſt.* 48. The Meſſiah in whom the *Jews* had placed their Faith ſo high, appearing not able to ſhew a ſign of Miſſion, and what was worſe, turning *Turk*, they were extreamly confounded with ſhame,

ſhame, which they might have prevented, had they as they ought to have done, demanded the ſign effectually firſt. And if *Mahomet*, who was the *Muſſul-men*'s Meſſiah, or the Popes, who are the Catholics Meſſiahs, had in their beginnings but been put by Princes to ſhew ſuch ſigns of Miſſion as *Sabatai* was by the Grand *Seignior*, neither *Mahometans*, nor *Popes*, nor *Biſhops*, nor ſo many Superſtitious Sects and Schiſmes could ever have plagued the World, as they now have done: for all theſe have ſtill been raiſed by pretences of Miſſions from God, of which they never ſhewed a Sign.

They have falſely Tranſlated and Expounded the Scriptures in all words relating to Marriage.

The falſity of the Tranſlation appears in the particulars following.

Iſh. Iſha. ἀνὴρ, γυνὴ.

First, The word *Iſh*, which in the *Hebrew* Text ſignifies amongſt mankind a *Male*, and amongſt Beaſts the ſame, and the word ἀνὴρ, which in the *Septuagint* ſignifies the ſame, and the word *Iſha*, which in the *Hebrew* ſignifies a *Female*, and in the *Septuagint* γυνὴ, in *Latine* *Fœmina*, in *French Feme*, and in *Engliſh Woman*, which all ſignifie amongſt Mankind a *Female*, which words *Male* and *Female*, are uſed by Chriſt in their natural, certain, and general ſignification. Theſe have they tranſlated into the Artificial, Ambiguous, and Arbitrary ſignification of their *Vocabula Artis* of Man and Wife, as 1 *Cor.* 7. 2. The Original *Greek* is, *Let every Male have his own Female, and every Female her own Male*, which they have tranſlated, *Let every Man have his own Wife, and every Woman her own Husband*; that is to ſay, ſuch a Woman as the Biſhop will pleaſe Arbitrarily true or falſe for Money to certifie to be his Wife, and ſuch Man as he will in like manner certifie to be her Husband, and not ſuch as Chriſt ſaith, as God hath joined and made Man and Wife, which is a falſe tranſlation. 1. Becauſe it tranſlates words general, into words ſpecial. 2. Becauſe it tranſlates words of a natural ſignification, into *Vocabula Artis*, of an artificial ſignification. 3. Becauſe the natural ſignification was the voice of God, and the artificial is only the voice of Man. 4. Becauſe the natural was true, and the artificial is falſe and fictitious. 5. Becauſe the natural was fixed, and certain, the artificial is ambiguous and mutable, *ad placitum imponentis*, to ſignifie what he will, as ſerves moſt for his profit. The Biſhops have therefore falſely tranſlated the word of God into words of their own, that none may be called Husband and Wife but ſuch as give them Fees to call them ſo.

Male, Female.

Husband and Wife words ambiguous.

Zona, Kadeſh, Pillegeſh, Παλλακὴ,

Secondly, They have falſely tranſlated the Words *Zona*, *Kadeſh*, *Pillegeſh*, and Παλλακὴ to be Harlot and Concubine, which word *Zona* in the *Hebrew* Text ſignifies no more then a common Hoſteſs or *Cam-*

pona,

pona, one that ſells Victuals, or keeps an Houſe of Entertainment, the *Chaldee* renders it, *Fœminam fallacem, vagam, non ſub eodem tecto habitantem*, and the *Latin* tranſlation have rendred her worſe, that is plain Whore; for the *Romiſh* Lady will be ſure to call Whore firſt, and therefore tranſlates *Joſ.* 2. 1. concerning the Spies ſent to *Jericho*, *Venerant in domum cujuſdam meretricis Caupona, cujus nomen erat* Rachab *ut cubarent ibi*, but the *Engliſh* is tranſlated, *And they went and came to an Harlot's Houſe named* Rachab, *and lodged there*; now that ſhe ought not to have been rendred *Fœminam fallacem*, appears by her works, for it is not only the intereſt of all Hoſteſſes to be faithful to their Gueſt, though they do not lie with them; but ſhe was in a more ſpecial manner faithful to theſe, and hazarded her life for them, if ſhe had been diſcover'd both for her hiding and letting them over the Town-wall. And as to the word *Zona*, ſeeing it hath moſt naturally a good ſignification of an Hoſteſs or ſeller of Victuals, and *Verba ſunt accipienda in mitiori ſenſu*, there is no warrant, were the word ambiguous, (which doth not appear neither) to tranſlate it in the worſt ſence, and indeed when they have rackt *Zona* all they can, they cannot ſo much as make it ambiguous, or ſqueeze more out of it then *Caupona* or an Hoſteſs.

falſe tranſlated. Harlot.

Thirdly, As to the word *Kadeſh* in the *Hebrew*, it ſignifies a Woman Conſecrated, which is an Holy-Woman, or an Holy-Nun, or Votareſs; now theſe holy Nuns or Votareſſes, who are Conſecrated to the ſervice of *Venus*, and thoſe who are Conſecrated in like manner to the ſervice of the Virgin *Mary*, do often play the Harlots, yet to tranſlate either of thoſe named Holy-Nuns Harlots, is a falſe tranſlation, for a Tranſlator ought to be of Words, and not of Deeds. *Kadeſh.*

Fourthly, *Judg.* 11. is tranſlated, *Now* Jeptha *the* Gileadite *was a mighty man of valour, and he was the Son of an Harlot*: *and* Gilead *begat* Jepthah. Which is a tranſlation repugnant to it ſelf, for if ſhe had been a common Harlot, or Hoſteſs, or other, how could it be known that *Gilead* begat *Jepthah*, and how was not *Jepthah Filius populi*, rather then the Son of *Gilead?* If ſhe were not a common Harlot, what difference between her and a Wife, in a Nation who allowed Plurality of Wives, and Succeſſion in Filial Portions to the Sons of them all. *Harlot.*

Fifthly, As to the word *Pillegeſh*, they derive it from *Palag*, *diviſit & Iſha Fœmina*, which in the *Hebrew* Text ſignifies no more then a divided or ſeveral, or another Woman or Wife, where there was Plurality allowed, and the word Παλλακὴ uſed in the *Septuagint*, ſignifies in the natural ſignification no more then *Juvencula*, or a young Woman, and both theſe they forſooth have tranſlated Concubine, a *Vocabulum Artis* of their own Forging, which they will have to ſignifie a Woman who hath not had both Banes and Benediction of one of *Priapus* Prieſts in a Temple; yet is there not in the Original of the whole Scripture, either Old *Pillegeſh.* Παλλακὴ.

or

No ſuch word as *Concubine* in the whole Original Scripture.

or New Teſtament, ſuch a word as Concubine, neither is there any where *Iſha*, made more lawful then *Pillegeſh*, or γυνὴ then Παλλακὴ. So *Gen.* 1. 2, 3. *Sarah* and *Hagar* are both tranſlated *Abraham*'s Wives. And *Gen.* 25. 1. *Keturah* is tranſlated *Abraham*'s Wife, yet 1 *Chron.* 1. 32. ſhe is tranſlated Concubine, whereas the words of the *Septuagint* are Καὶ υἱοὶ Χετθούρας Παλλακῆς Αβραάμ, and ſignifie only the Sons of *Keturah Abraham*'s young Woman, and there is no ground at all to tranſlate her Concubine; for *Abraham* married her not till *Sarah* was dead, and the Marriage of *Keturah* therefore being lawful and unblameable, ſhe ought not to be toucht with the ignominious and fictitious name of Concubine.

So *Ruth* 4. 12. they tranſlated her young Woman, who was fitter to be tranſlated Concubine, then *Keturah*, for ſhe ſtole to Bed to *Boaz* at night amongſt the Sheaves without his leave or calling, and like the *Antipodes*, the Woman wooed the Man, which *Keturah* was more modeſt for ought we find, then to do to *Abraham*, but with them kiſſing goes by favour.

The like falſity is likewiſe uſed in tranſlating 1 *Kings* 11. 3. where it is ſaid of *Solomon* in the *Septuagint*, Καὶ ἦσαν αὐτῷ γυναῖκες ἄρχουσαι ἑπτακόσιαι καὶ παλλακαὶ τριακόσιαι, Which is tranſlated in *Latine*, *Adeo ut eſſent ei Fœminæ Principes Septingentæ & Concubinæ trecentæ, quapropter inclinarant Fœminæ ejus animum ejus*, &c. but in *Engliſh* the tranſlation is, *He had Seven Hundred Wives Princeſſes, and Three Hundred Concubines, and his Wives turned away his heart*, which ought to have been tranſlated, *He had Seven Hundred Women Princeſſes, and Three Hundred young Women, and his Women turned away his heart*; for if Plurality of Women make Concubines, then ought the Seven Hundred to have been tranſlated Concubines, rather then the Three Hundred; if it be ſaid Riches and Portions make Wives, and Poverty Concubines, or Jointures and Dowers make Wives, and none make Concubines, this is contrary to what Chriſt ſaith of Marriage, That it is of ſuch as God hath joined in one fleſh, and not whom Scriveners and Lawyers have joined in one Indenture. Then as to Poverty, none will deny a poor Wife to be as true a Wife as a rich: and many think her in goodneſs, far ſuperior, for *intolerabilius nihil eſt quam Fœmina dives*, ſhe that brings a Portion to hire the Man, and the Man who gives Jointures to hire the Wife, ſuch a Woman ſo hired, may indeed be rather ſaid a Concubine then a Wife; and ſuch a Man ſo hired, be rather ſaid a Stallion then a Husband, and ſuch a Mercenary Conjunction be rather called a Market then a Marriage.

To return again to the Tranſlation, it is tranſlated, *That his Wives drew away his heart*, but it is more likely the young Women, who are tranſlated Concubines drew away his heart, then old Wives; whereas

if

if it had been tranſlated as it ought to be, *his Women drew away his heart*, which word includes both Wives and Concubines, it had been more true according to the Original, and more probable according to the effect.

They have falſely tranſlated the Seventh Commandment Lo Tinaph *to be Adultery.*

Lo Tinaph, Latin'd *Non Mœchaberis*, doth only ſignifie Carnal uncleanneſs in general, but they to make all ſins equal, and that they might take as high Commutation-Money for the meaneſt, as the greateſt Crime, have tranſlated it Adultery, which is *Species famoſior*, they ſay *pro Toto Genere*, as is uſual in Tropes and Figures; but though, if they turn Poets they may Feign, if Songſters Deſcant, if Commentators Paraphraſe, if Orators turn in Tropes and Figures, yet if Tranſlators of a Law of God, it is wickedneſs for them to uſe any of theſe. He who is a Tranſlator of any Law, eſpecially of one that is Penal, is chained *ad idem & non ad ſimile & verbum verbo curabit reddere fidus interpres*, every word is to be render'd in no greater or leſſer ſignification in the Language to which it is tranſlated, then it was in the Original; for where the Legiſlator prohibits all uncleanneſs in general, and expreſſes no ſpecial Penalty, but only on pain of his diſpleaſure, here he hath Power to puniſh the ſmaller offences with few ſtripes, and the greater with many, according to Juſtice and Equity; but if he prohibit ſpecially Adultery, and makes no other Law, then he giveth liberty to all uncleanneſs beſide what is not ſpecially prohibited; for where there is no Law there is no Tranſgreſſion. As *Levit.* 20. 10. It is ſaid, *The Adulterer and Adultereſs ſhall ſurely be put to death*, which being a Penal Law of death, never was, nor ought to be extended to any leſſer uncleanneſs then Adultery. For it is a Rule in all Juſtice, that no Penal Law ought to be extended by Equity; the tranſlation is therefore falſe, which extends all uncleanneſs to Adultery, or Adultery to all uncleanneſs.

Lo Tinaph falſe tranſlated.

They have falſely tranſlated Πορνεία *to be Fornication.*

Πορνεία ſignifies Carnal uncleanneſs only in general, but they on the ſame account of raiſing their Commutation-Money, have tranſlated it the ſpecial crime of Fornication, which is for the reaſons given before of Adultery, falſely tranſlated, and the ſame miſchiefs enſue thereby.

Πορνεία falſly tranſlated *Fornication.*

They have falſely tranſlated Παῖδα, Παιδίσκλω *in the Tenth Commandment, to be the Man-Servant, and Maid-Servant.*

Exod. 20. 17. They have tranſlated the Tenth Commandment, *Thou ſhalt not covet thy Neighbours Wife, nor his Man-Servant, nor his Maid-Servant.* Whereas the *Septuagint* clean varies both in Words and Order, and makes the Commandment thus, *Thou ſhalt not covet thy Neighbour's Woman, thou ſhalt not covet thy Neighbour's Houſe, nor his Field, nor his young Man, nor his young Woman,* the *Greek* words are Παῖδα, Παιδίσκλω. So *Amos* 2. 7. It is ſaid, *A Man and his Father will go into the ſame Young Woman,* αὐτῶ παιδίσκλω.

Παῖδα, Παιδίσκλω, falſely tranſlated.

They have falſely tranſlated Mamzer *and* Nothos *Baſtard, wherein are noted the great Errors of* Coke, Skene, *and* Grotius, *by following the Biſhops tranſlation, and other Popiſh Writers.*

Having recited many of the other falſe tranſlations relating to Marriage, we are now come to the fowleſt of them all, relating not only to Marriage, but all the dependencies of the ſame, *Filiation, Aliment,* and *Succeſſion.* And whom have we the ill fortune firſt to meet by the blind leaders of the blind fallen into this common Ditch, but the two famous Fathers of the Law of *England* and *Scotland, Coke,* and *Skene,* who giving implicit Faith herein to Biſhops Tranſlations, Certificats, and other *Popiſh* Writers, became ſo far by them deceived, as to leave behind them in their writings as follows.

Firſt, *Coke Com. Fol.* 243, and 244. ſaith, *Baſtardus dicitur à Græco verbo* Baſſaris, *id eſt Meretrix, quia procreatur à Meretrice* and then he ſaith, *Aerd* ſignifies *Nature,* and *Baſtard* ſignifies *baſe natural.* Then becauſe Reaſon is very ſcarce with him, he gets an old Rhime, and ſays,

Manſeribus ſcortum notho Machus dedit ortum,
Ut ſeges & ſpica, ſic ſpurius eſt ab amica.

But *Skene* ingeniouſly confeſſeth that *Baſtardus* is a barbarous word, and that there can be no reaſon given for it; and certainly he ſo far ſpeaks moſt true, or elſe was never a barbarous word, if this is not, which puniſheth the innocent Child before it can ſpeak, for the ſin of the Parents, yet he after falls into the like miſtake with *Coke,* which will beſt appear in his own words as you may find them. *Skene de verb. ſignific. tit.* Baſtardus,

ſtardus. Where he ſaith *Baſtardus*, in *French* Baſtard, ane Barne, unlauchfully gotten out with the band of Marriage, quhilk word is barbarous, and as I ſuppoſe, na reaſon can be given quhairfore it is ſo called, bot *Gabriell Paleotus* in his buik *de Nothis ſpuriiſq; filiis*, cap. 18. alleadgis it to come fra *βάσσαρις*, quhilk ſignifies an Huire or common Woman: be reaſon that Baſtards are commonly got and procreat with ſick Weemen. In *Greek* he is called *Nothus*; for *τὰ νόθια*, ſignifies that part of the Fathers guids and geare quhilk be the Law of the *Athenians* leaſumly micht be given be the Father to his Baſtard Son, extending to the Son of *Mille Drachmæ*, and therefore *νόθιον* was called all that was not true or lauchful, as writis *Budæus* in *Pandectas*, and ſwa *νόθος* cummis fra *νὼ privativa particula & θεῖον* h. 1. *Divinum*, *teſte* Suida; becauſe he wantis that quhilk is godlie and lauchful, that is, ane honeſt or lawful Birth or Parentage, and ſwa *νόθος dicitur qui non ſit legitimus*, to the quhilk there is na proper *Latine* word careſpondent, as *Quintilianus* teſtifie, *lib.* 3. *cap.* 6. nevertheleſs he is commonly called *Spurius* ſo. in *lib.* 1. *ff. de poſſeſs. contr. Tabul. Spurii dicuntur, παρὰ τὴν σπορὰν h. e. ſtatione vel ſeminatione, eaq; vaga & promiſcua, ubi doctiores, σπορὰδην legunt quaſi ſparſim concepti*, like as they are called *vulgo concepti* *in adoptivis* 14. *de ritu nuptiarum*. Likewiſe *Spurius* was the the proper name of ane man amangis the *Romans*, as *Titus* or *Caius*, & was written with twa letters *S.P.* and likewiſe they quha had na certain Father was deſigned with the ſaid twa letters *S. P.* and ſwa by commoun uſe, and conſuetude, *Spurii dicebantur ſine Patre*, as writes *Plutarchus* in *problematibus*, becauſe their Father and Mother notcht being lauchfully married, they have na certain Father, *quia Pater dicitur, quem legitimæ nuptiæ demonſtrant. l.* 5. *ff. de in jus vocand.* and 'tis alike to have na Father, and to have incertain Father as we ſay, He quha will have mony Gods, he's na God. *Poſtremo* Blundus *lib.* 8. Romæ *triumphantis is inquit qui illegitimè natus eſſet, ex Concubina vel ſcorto contumeliæ cauſa, Spurius dicitur, eò quòd Sabini muliebre pudendum Sporon appellarunt hæc ille in honeſto originis genere in lucem editos, infami & inhoneſta appellatione notare voluerunt Veteres.* And that part of Weemens Claiths ſick as of their Gown and Petticoat quhilk under the Belt, and before is open, commonly is called the *Spare*. As concerning the Succeſſion of Baſtard, theſe ſhort rules are to be obſerved, couform to the Law and Practice of this Realm. Firſt, That na Baſtard, nor na Perſon, notch procreat and gotten in lawful Marriage maie ony ways be lauchful Aire or Succeſſor to ony of our Soveraine Lordis Leiges, *lib.* 2. *c. in Cuſtodiis* 50. for be the Law of God, *Iſmael* being Baſtard gotten upon ane bound Woman, *Agar* micht not be Aire to *Abraham*, with *Iſaac*, *Gen.* 21. 10. Becauſe all right of Succeſſion is by reaſon of bluid and Conſanguinity of the Fathers ſide,

Kin. quhilk is called *Jus Agnationis*, and theirfar ane Baſtard quhais Father is incertain be the Law, is underſtand be reaſon of bluid, to be ſib to na man, and nane to him.

I have done both *Coke* and *Skene* right, and preſented what they ſay, to the full; now I hope I may have liberty to do the Truth right againſt them; and if I anſwer but theſe two, I need trouble the Reader with no more; for I ſhall anſwer all the Law of the higheſt repute in *Great Britain*, and with the ſame ſtroke overthrow all the Baſtard-Law of Lawyers, and Baſtard-Divinity of Biſhops, in the three Kingdoms.

Queſtion. The Queſtion is, *Whether* Mamzer *in the Old Teſtament, and* Nόθος *in the New, are falſely tranſlated Baſtard?*

Coke and *Skene* whether retained by the Biſhops or free, appears not, but their beſt endeavours appear as far as they can, to defend the charge of falſity of the tranſlation, and to prove the ſame true, which they try to do by the ways following. (1.) By Etymologies. (2.) By Authority. (3.) By Rhime. (4.) By Reaſon. As to Etymologies, they derive Baſtard from *Baſſaris*, which they ſay ſignifies *Meretrix*. (1.) What is this to the purpoſe to prove *Nothus* a Baſtard? (2.) It is denyed that *Baſſaris* ſignifies *Meretrix*, for *Euſtathius* will have *Baſſara* to ſignifie *Nutrix Bacchi*, or a Drunken Mad Woman, and *Baſſaris* to ſignifie *Vulpecula*.

Firſt, They derive *Etymologies* from *Spurius*, from *Aerd*, from *νο privativa particula & θεῖον*, from *Sporadene*, from *Sporan*, from the *Spare*, but what agreement have theſe in ſound or ſenſe with *Mamzer* or *Nothus*, or what Sequel as to the Queſtion can be deduced from them; had it not been as pertinent for them to have recited thoſe ridiculous *Etymologies* which derive *Lepus* from *Levipes*, and *Lapis* from *Lædipes*, and *Beere* from *Be here*, and *Money* from *My honey*: and concluded *Ergo* the Biſhops have not falſely tranſlated *Mamzer* and *Nothus*; for there is no reaſon why *Meretrix* may not come from an *Hare* as well as a *Fox*, *loquendum cum Vulgo*, they call her a light Woman. And *Solomon Prov.* 7. 11. ſaith. *Her Feet abide not in the Houſe: Now ſhe is without, now in the ſtreets*, which ſhews ſhe is a *Levipes*. And did not *Fabius Maximus* ſhew his ſhoe to one who askt him why he put away his Wife, and ſay, *Is it not a fair ſhoe, yet none knows beſides my ſelf where it wrings my Foot*, which ſhews ſhe is a *Lædipes*; then may ſhe not be as well Drunk and Mad with Beer as with Wine, which ſhews ſuch Women may be derived from the one as well as the other; and may ſhe not better be called *Meretrix* from Money, then from Wine; for *Meretrix dicitur à Merendo*,

Merendo, from letting her ſelf to hire for Money or Reward, and this as well agrees with *My honey*, as *Money*; for *Solomon* ſaith, *Prov.* 5. 3. *The lips of a ſtrange Woman drop as an honey-comb*; and do not the Poets ſay, *That a Bee which makes honey, ſtung* Cupid *by the Finger, while he was ſtealing it*, whereof he complained to his Mother; and doth not this as well prove that *Venus* came from *Baſſaris*, and that *Cupid* is in *Hebrew Mamzer*, and in *Greek Nothus*, and that therefore *Mamzer* and *Nothus* do ſignifie Baſtard, which is to infer *quodlibet ex quolibet*, and concluſions from *non ſequitur's*. Behold the fantaſtick Fundamentals of a Matrimonial Divinity, and Law built on *Etymologies* of ſounds and air, inveloped in the darkneſs and Clouds of ſtrange Languages, of *Hebrew*, *Chaldee*, *Syriack*, *Greek*, and *Latine*, the like to which if done in *Engliſh*, would be derided by the very Boys!

Secondly, The next Argument to make good their Baſtard-Law, is *Authority*: *Coke* to begin, fetches an Author out of Goal without an *Habeas Corpus*, to give him Authority to bring him to any Court he calls him. *Fleet. lib.* 1. *cap.* 5. Next he makes bold with *Bracton*, and the Book of Aſſizes. *E.* 3. *H.* 4. *H.* 6. *E.* 4. *Skene* muſters up as before mention'd, old King *Malcomb* the *Second*, *Palæotus Budæus* the *Pandects*, all having the unhappineſs to be born, bred, buried, and made in the times of the higheſt Popery and Superſtition, and though *Plutarchus* writ excellently againſt Superſtition, and was no Papiſt, he was a *Pagan* Prieſt of *Apollo*, who was a Devil, and his Prieſt partial in whatſoever tended to Dæmonalatry, or the great gains accruing thereby to the Diabolical Prieſthood.

Grotius, whom I ſhall after cite as to his *Gigantomachia*, in making all Giants Baſtards, in his learned Peice *de Jure Bell. & Pacis*, whereſoever he comes to touch on *Marriage*, *Filiation*, *Aliment*, and *Succeſſion*, inſtead of the immutable Law of Nature, collects together the old Superſtitious Laws, Cuſtoms, and Ceremonies of the *Pagans*, *Greeks*, and *Romans*, and on that ſandy Foundation builds *Marriage*, *Filiation*, and *Succeſſions* on private Pacts and Covenants of Parties, or on the publick Pacts or Precepts of human Laws, and the Mercenary conſiderations of Portions, Dowries, Jointures, *Morgengabicas* Tails, contrary to the Divine ends inſtituted by God of Marriage.

All which Authorities, or were there numberleſs more of private Perſons, or publick States, or of Nations, Angels, Dæmons, or Men, are already ſhewn, to ſignifie nothing againſt the leaſt Commandment in the Moral-Law of God.

Thirdly, As to the Rhyming Verſes, if ſo great Laws and Nations are no Authority, a Poet can be none. *Pictoribus atq; Poetis quidlibet audendi ſemper fuit æqua Poteſtas.* And it ſhall be further ſhewn after, That if *Coke* allow but this his own Poet to be Authenteck, three words of his two Verſes confute him unanſwerably.

Fourth-

Fourthly, As to Arguments of Reaſon, *Coke* hath none at all, except *Quia Filiatio non poteſt probari*, which hath been anſwer'd before, in the Law of the Husband's Fathering the Wive's Children, if within the four Seas; neither doth he give more reaſon why he would have a Child call'd a Baſe-natural, or his Fictions in Law beleived above the truth of the Fact, then he doth, why a Man-child ought to be called *Mulier*.

Fifthly, As little reaſon doth *Grotius* give, why a Giant ſhould be tranſlated Baſtard, according to a certain *Latin* Tranſlation of the Bible (of which there are a multitude, all variant one from another) 1 *Sam.* 17. 4. which is thus, *Et egreſſus eſt quidem ſpurius è Caſtris Peliſchthæorum*, Goliah *nomine*, Gatho *oriundus, cujus altitudo erat ſex Cubitorum cum ſpithama*; which is in *Engliſh*, *And there went out of the Tents of the Philiſtins a certain Baſtard, by name* Goliah, *whoſe height was ſix Cubits and a ſpan*; ſo becauſe he was a Giant, this *Latin* Tranſlation hath tranſlated him a Baſtard. And *Grotius*, though he were as great a Giant of learning, as *Goliah* was of Body, indeavours to give a reaſon which is not ſo tall as a Dwarf; for he ſaith, *The* Hebrews *called Giants Baſtards, becauſe they lived without Matrimony*; which he intends to be the Ceremony of coupling Male and Female together, uſed by a Prieſt in a Temple. Which cannot be; for of all Nations in the World, the *Hebrews* were moſt free from having ſo vile a word, or a thing as Baſtard amongſt them; and for Marriage in a Temple, they never had any at all, but always contracted in the open Air, and not under any Roof. And both they, and all other Nations, have had ſo honourable opinions of Giants, and eſteemed their deſcent to be ſo far from being ignoble, as they derived them from their gods themſelves. So *Hercules* they would have begot by *Jupiter:* And *Ajax* boaſts of himſelf, *Sic à* Jove *tertius* Ajax. And both *Jews* and *Chriſtians* affirm them to be begotten by the Sons of God: As *Gen.* 6. 4. it is ſaid, *There were Giants in the Earth in thoſe days: and alſo after that, when the Sons of God ſaw the Daughters of Men, and they bare Children unto them, the ſame became mighty Men, which were of old, Men of renown.* Some expound theſe Sons of God to be Angels; but that is contrary to Chriſt, who ſays, *Angels neither marry, nor are given in Marriage.* But though Giants and ſuch Hero's were not begotten by Angels, they all agree to father them on more honourable Titles of the Sons of God; and therefore never intended they ſhould be tranſlated, or called Baſtards, or baſe Naturals.

Giant falſely tranſlated *Baſtard.*

Angels beget not Giants.

As low a reaſon doth *Grotius* likewiſe give, why he ſhould be called *Nothus* and not be inheritable, whoſe Mother at her Marriage had not a Torch carried before her.

Ac nec nupta quidem Taedaque accepta jugali,
Cur niſi ne caperes regna paterna Nothus, Grot. *de jur. Bel. & Pac. p.* 168.

1. The

1. This authority of *Ovid* which he cites, That the not vouchſafing to have a Torch, or other Ceremonies Nuptial at the Marriage, ought to make the Child a *Nothus*, or Illegitimate, as to Succeſſion, proves againſt him; and that it ought not, but is an injury and injuſtice if it ſhould: For this is written by *Phædra* a later Wife of *Theſeus*, to *Hippolitus* his Son, by *Hippolita* the *Amazon*, a former Wife deceaſed; with whom ſhe, being his Step-mother, fell in love; and to tempt him to her, and not to forbear out of reverence to his Father's bed, who had been ſo injurious to him, as not to marry his Mother with due Rites and Ceremonies, that he might have a pretence to diſ-inherit, and put him by the Succeſſion of the Kingdom. She to make her argument the ſtronger, and the more inciting, joyns her ſelf with him to be as highly injured as himſelf, that he might the more aſſuredly truſt to find her ready to join with him in revenge, as well as love; for ſo ſhe ſaith, having firſt repeated her own wrongs ſhe had ſuffer'd.

Sola nec hæc nobis injuria venit ab illo,
In magnis læſi rebus uterque ſumus.

And after, ſhe ſaith of the Marriage of his Mother:

Ac nec nupta quidem tædaq; accepta jugali,
Cur niſi ne caperes regna paterna Nothus.

And then ſhe ſaith,

I nunc, Imeriti lectum reverere parentis,
Quem fugit & factis abdicat ille ſuis.

But the moſt vertuous and valiant *Hippolitus* remaining invincible in Chaſtity, as to his Step-mother, and in Loyalty as to his Father; ſhe, as *Potiphar's* Wife did *Joſeph*, to her Husband falſly accuſed him of attempting to force her; which he over-credulous to believe, ſought to kill his Son. And he flying his Father's jealouſie, and cauſleſs anger, had by his frighted Horſes, his Chariot overthrown, and himſelf torn to pieces amongſt the Rocks. So infortunate was innocence in all things, except his Fame, which hath laſted through ſo many Ages. His Father on *Phædra's* confeſſion, underſtanding the Innocence of his Son, and falſeneſs of her calumny, ſhe firſt killing her ſelf, after the juſt Funeral Rites performed, and Lamentation anſwerable made, is ſwallowed up with grief, for the loſs of a Son ſo dearly by him beloved. Here therefore appears, That had it not been for the falſe calumnies of his Step-mother, *Hippolitus* had ſucceeded to his Father *Theſeus*'s Kingdom; notwithſtanding his Mother

Hippolita

Hippolita had not a Torch carried before her, nor was ever married by the Ceremonies of a Prieſt in a Temple: wherein though *Grotius* need no other anſwer to his Ceremonial Marriage, then what in this example he thought to vouch for them, and his principal *Goliah*-argument being fallen, there need no trouble of encountring the petty acceſſary Reaſons: Yet I ſhall likewiſe perſue them in their flight, at leaſt to diſcover what they are.

His firſt reaſon is, he ſaith, Where the Father doth not vouchſafe the Woman the Lawful Ceremonies of Marriage, he makes the Child contemptible to be his Succeſſor.

To which is anſwer'd, That we need look no further then his own example, whether *Hippolitus* was a perſon contemptible, or not, meriting in all reſpects to ſucceed to his Father's Kingdom after his Death.

2. It is further anſwer'd, That theſe Ceremonies whereon he founds his Doctrin of Ceremonial Marriage, and the compulſion to the ſame, are before ſhewen to come from the Devil, and the Prieſts of *Priapus* and *Venus*, and in imitation of them from Popery. Therefore in ſuch Kingdoms as are Proteſtant, and not Pagan or Popiſh, though there may be a toleration given to ſuch as deſire to marry with a Torch, or any other public Ceremonies ſuiting with their Conſcience and Convenience; yet ought not there to be compulſion of Diſſentients, either in Conſcience or Convenience; nor ſo impious a puniſhment as Illegitimation laid on the innocent Child, for ſuch Toys as Ceremonies neglected or diſſented to by the Parents.

3. There is greater authority in point, then either *Latin* or *Greek* Poets, That the Father though he contemn, yea hate the Mother, ought not to illegitimate the Child, as to Succeſſion, as appears, *Deut.* 21. 15. *If a Man have two Wives, one beloved, and the other hated, and they have born him Children, both the beloved and the hated; and the firſt-born Son be hers that was hated: Then it ſhall be when he makes his Sons to inherit that which he hath, that he may not make the Son of the beloved firſt-born, before the Son of the hated, who is indeed the firſt-born; but he ſhall acknowledg the Son of the hated for the firſt-born, in giving him a double Portion of all he hath; for he is the beginning of his ſtrength, and the right of the firſt-born is his.*

The Reaſons given by *Skene*, why *Nothus* ſhould ſignifie a Baſtard, are:

1. Becauſe he ſaith, Baſtards are commonly got and procreat of Common Women, who are in *Greek* called *Baſſaris*. As to the Etymology, 'tis anſwer'd before, as to the matter of the Children of Common Women, 'tis deny'd that they have commonly any Children at all; for either they make themſelves barren by ſome wicked Arts of Sterility according to the Poet.

Et jacet auratо jam rara puerpera lectо,
Tantum hujus Artes, tantum Medicamina poſſunt.

According to which, we do not hear of *Lais*, *Thais*, *Phryne*, *Flora*, or others, who are famous or rather infamous at the Trade, to have had any Children at all; which was one cauſe that *Flora* made the Common-wealth her Heir. And we ſee by experience, that the Children born, as they call it, out of Wedlock, are, for the greateſt part, of ſuch as have kept themſelves chaſt to one Man; yea more chaſt then many Wives, who have been coupled to the Husbands by a Prieſt in a Temple, or a Juſtice of Peace in his Hall. And further in Nature, the too thick ſowing of the field, and the too ſoon plowing after ſowing deſtroyes the Harveſt: So in greateſt probability, ſuch a Woman as hath a Child, ought to be preſumed ſhe hath not been common, and the Child cannot be here *filius populi*; but his Father is better known then of the Children of a Woman married by the Prieſt in a Temple, though the Husband hath been always within the four Seas.

2. He ſays, *Nothia* ſignifies by the *Athenian* Law a Portion given to a Child not born within Wedlock, which was not to exceed *Mille Drachma*; *ergo Nothos* ſignifies a Baſtard. *Negatur ſequela*; For the Child which he himſelf makes a Baſtard, he ſays, cannot be Heir or Succeſſor to any; which is, he cannot be Succeſſor Teſtamentory or otherwiſe to any filial Portion at all; which the *Athenian* Law did ſuffer him to be, ſo it exceeded not the value of *Mille Drachma*. And further *Reg. Majeſt.* cited by him, ſaith, *a Baſtard can neither be Heir, or ſucced to the Lands or Goods of the Parents, nor the Parents to him:* A moſt inhuman Law, and ſubverting the courſe of Nature, which the *Athenian* was not. And what was the end of this Epiſcopal cruelty, of taking away the inheritance of the Parents from the Child, and of the Child from the Parents; but that they themſelves might be Succeſſors to his movables, and if he bought not of them for money his Legitimation, then they might forfeit all was left to the King; not out of any good will they bore to the King, but to force the parties, Parents and Children, to pay them what they pleaſed, or *quod non capit Chriſtus, capiat fiſcus*, a kind of Anti-Chriſtian Blaſphemy againſt Chriſt, and Treaſon againſt their Princes; to fill their Treaſuries with the ſpoils and curſes of miſerable Children, and Parents, under pretence of the names of God and the King, to make them thought Patrons and Acceſſaries to their Rapines.

3. He ſays, Iſmael *was a Baſtard, and ſucceeded not to the inheritance, but had a Portion.* As to *Iſmael*'s being a Baſtard, it is falſe, and contrary to the Text of Scripture, *Gen.* 16. 3. which expreſly ſaith, Agar *his Mother was* Abraham's *Wife.* If his Mother therefore were *Abraham*'s

Wife, he could not be *Abraham*'s Baſtard, for he himſelf affirms before, that a Baſtard is got of a Common Woman.

4. *Abraham*'s giving him a filial Portion, and the Sons of *Keturah* likewiſe their filial Portions, is an acknowledgment and not a diſ-acknowledgment of them to be his Sons: Therefore though he excluded them from the inheritance, he doth not intend thereby to make them Baſtards, for it was the *Patria poteſtas* of every Father, then, to diſpoſe of his own Eſtate how he pleaſed, and to thoſe who pleaſed him beſt, and might give the inheritance from the eldeſt if he thought fit; till after reſtrained by the Law of Primogeniture, to give him a double Portion.

5. The *Arabians*, who deſcended from *Iſmael*, and *Turks* to this day, affirm *Iſmael* to be the right Heir, and not *Iſaac*; and on no other Title poſſeſs the Land of *Paleſtine*, but on the Primogeniture of *Iſmael*. 'Tis therefore very unadviſed to call *Iſmael* Baſtard, againſt a Succeſſion ſo long derived from him by the Sword, without better reaſons, or a better Sword to argue it againſt the poſſeſſors.

6. Other reaſons have been made likewiſe, in behalf of the Primogeniture and Legitimation of *Iſmael*, which ſhew him to have been no Baſtard: as firſt, That the Marriage between *Abraham* and *Sarah*, being Brother and Siſter, was Inceſtuous, and therefore the Marriage with *Agar* more Lawful then hers. Next, that uncertainty of Filiation was more in *Iſaac* then in *Iſmael*, and *Iſmael* had better probation of himſelf to be the Son of *Abraham* then *Iſaac* had, for *Agar* was kept in perpetual cuſtody of her Husband, from the time of his begetting, to her bringing forth *Iſmael*, whereas *Sarah* was let looſe to the cuſtody of *Abimelech* and his Courtiers.

7. He ſays for a Reaſon, *That a Child born out of Matrimony is not Sib or Kin, or of Conſanguinity to any, nor any to him*: which is contrary to the expreſs Text of Scripture, *Levit.* 21. 2. *There ſhall none be defiled for the dead amongſt the people, except for his Kin that is near to him, that is, for his Mother, and for his Father, and for his Son*; yet here was no Father or Son made by the Ceremony of a Prieſt in a Temple. Not much unlike to this was the whimſey, which laſted a while, of our Epiſcopal Courts, and Common Lawyers, that a Mother was not kin to her Son, as appears, *Swimburn 7. part* 119. The Caſe was in the Reign of King *Edward* the Sixth: *Charles* Duke of *Suffolk* having iſſue, a Son by one *Venter*, and a Daughter by another, made his laſt Will, wherein he deviſed Goods to his Son, after whoſe death the Son alſo died inteſtate, without Wife, and without iſſue; his Mother and his Siſter by the Father's ſide (for ſhe was born of the former *Venter*) being then living, the Mother took the Adminiſtration of her Son's Goods, by the *Stat.* 21 *H.* 8. 5. whereby it is Enacted, *That in caſe any perſon die inteſtate, the Adminiſtration of his Goods ſhall be committed to the next of Kin, &c.* The Adminiſtration

tion being thus granted to the Mother; the Siſter by the Father's ſide doth commence Suit before the Eccleſiaſtical Judg, pretending her ſelf to be next of kin, and the Mother not to be kin at all to the party Deceaſed; and therefore deſireth the Adminiſtration, formerly granted the Mother, to be revoked, and committed to her, as next kin to the Deceaſed, by force of the ſaid Statute. Hereupon the moſt Learned, as well in the Laws of the Realm as in the Civil Law, were conſulted; and both Common Lawyers and Civilians, unanimouſly declared it to be an Article of their Faith, contrary to Scripture and common ſence, that a Mother was not kin to her Son; ſo Judgment was paſs'd againſt the Mother, whereby ſhe loſt her Son and her money too, perhaps ſome that ſhe gave him. And in thoſe days this precedent did ſo much prevail, that many other Judgments paſſed accordingly againſt the Mothers. Then *in* Rama *was there a voice heard, lamentation and weeping, and great mourning,* Rachel *weeping for her Children, and would not be comforted, becauſe they were not,* yea weeping it over again.

Qualis populea mœrens Philomela *ſub umbra*
Amiſſos queritur fœtus, quos durus arator
Obſervans, nido implumes detraxit, at illa
Flet noctes, ramoq; ſedens, miſerabile carmen
Integrat, & mœſtis late loca queſtibus implet.

Yea our *Rachel* had twice more cauſe to weep then *Philomel*, for *Philomel* wept only becauſe her Children were not, but *Rachel* wept both becauſe hers were not, and becauſe ſhe muſt not be kin to them neither: And ſurely her mourning had continued for ever, had not in proceſs of time, the Tears of Women and the Beauty of Truth (for what is ſtronger then Truth and women againſt Popery) prevailed in *England*, but could not in *Scotland*, becauſe *Skene* put it on the Father, who is not ſo apt to weep as the Mother, that he ſhould be no Sib or Kin to his Son. But will you not wonder? My Lord *Coke* will preſent you with a couple of rarer abſurdities, if poſſible, then this; for he ſaith, *lib.* 10. in *Leonard Lovels* his Caſe, *fol.* 83. *That if a Woman have a Baſtard* (which he intends a Child not born of a Ceremonial Marriage) *that this Child is not in truth, but only in reputation her Child.* And therewith agrees *Dyer M.* 17. & 18. *Eliz. fo.*345. & 12 *Eliz.* 290. And then he in his Commentaries; and the Judges in *Plowden's* Commentaries agree in *Sharington* and *Pledal's* Caſe, That if a Man in conſideration of natural affection, covenant to ſtand ſeized of ſuch a piece of Land, to the uſe of his Son; this natural affection is a ſufficient conſideration to raiſe an Uſe, as they call it, and to veſt the Eſtate in the Son, though he were the Son of an Adulterer, and not the Son of his reputed Father, if his Mother were married

The Child not the Child of the Mother.

Natural affection no conſideration to raiſe an Uſe to a natural Son, but good to an Adulterate Son.

ried by a Prieſt in a Temple, and his reputed Father within the four Seas. But if the Son be his true natural Son, begotten by himſelf, then the conſideration of natural affection to his true Son, is no conſideration to raiſe an Uſe, nor to paſs the Land to him, but the ſame is void and null. In the firſt Caſe, where there is no ground for natural affection, they talk all of nature, extolling her above all conſiderations, and cry out *Naturæ vis maxima*, and *Natura bis maxima*; and give away the Eſtate from the true natural Child, to the falſe Child of the Adulterer. Then in the latter Caſe, where there is a juſt and righteous cauſe of natural affection, commanded by God to Men, and inſtincted by him to Beaſts to provide for their own. There they are void of natural affection, their blind Eye of the Law, muſt ſee the Infernal darkneſs of Fictions in the Law, and be ſhut againſt the Sun of Truth: They pretend the Law of Nature in their words, but in their works *omnia naturæ contraria legibus ibunt.* They will not allow natural affection of the true Father, to his true natural Child to be a conſideration to raiſe an Uſe, in ſo much as one Acre of Land; where they will allow it to the true *Nothus*, and Fictitious Child of an Adulterer, againſt whom *probatio non admittitur in contrarium*, ſufficient to inveſt him in the thouſands of Acres of *Seigniories* and *Baronies*. 'Tis ſtrange that Men who profeſs Law and Juſtice, ſhould not be aſhamed of ſo groſs and repugnant abſurdities, and contrary, not only to all Law and Juſtice, but common ſence and reaſon.

Nothus made the true Son, and the true Son made *Nothus*.

Reaſons ſhewing further, that Mamzer *in the Old Teſtament, and* Nothus *in the New, are falſly tranſlated Baſtard.*

Mamzer, Alienigena.

1. The word *Mamzer* is by the beſt Criticks, affirmed to ſignifie naturally and properly *Alienigena, ſeu de alienæ gentis fœmina natus.* And that *Deut.* 23. 2. ought to be tranſlated *Alienigena non introibit*, and not *Spurius non introibit*, or in *Engliſh, a Baſtard ſhall not enter*; but the Tranſlation ought to be in *Engliſh, An Alien born ſhall not enter into the Congregation of the Lord, even to his tenth generation ſhall he not enter.* So as the Law here (as the Laws of moſt other Nations do) doth put a diſtinction in priviledge between Alien and Denizen born, and not between unlawful and lawful born; for an Alien is as lawfully born as a Denizen, but hath not the ſame priviledge either, as to Religion of entring into the Congregation, or of acquiring propriety in the Land, either by Purchaſe or Succeſſion; for if that ſhould be permitted, there would enſue the deriſion or corruption of all natural Religions, by contrary Nations, and the buying of one Nation out of their Land by another Enemy Nation, who were richer in mony then they. And that the intention as well as the words of the Law, was only againſt Aliens born, as appears manifeſtlyby

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the next Verſe in the ſame Chapter; where it is ſaid, *An* Ammonite *or a* Moabite *ſhall not enter into the Congregation of the Lord*: which, as the verſe before ſpake of Aliens in general, ſpeaks next of Aliens in ſpecial, *Ammonites* and *Moabites*; who being of kindred to the *Iſraelites*, might have been doubted, whether intended to be excluded under the general word Aliens, which this naming them ſpecially clears, and likewiſe clears that it is intended the National, and not the getting or birth of Children in private Families. And this is manifeſt by the conſtant practice of the whole *Iſraelitiſh* Nation, who had no ſuch thing as Illegitimation of the Children of any *Ebrew* Woman; but whether the Wives were one or many, the Children all Succeeded alike to their natural Parents; if the Father did not for any ſpecial reaſon, or otherwiſe expreſly diſpoſe of his Eſtate, which was a *Patria poteſtas*, without which propriety of Fathers in their own Goods, could not conſiſt, nor Adulteries of Wives, and Rebellions of Children be prevented. And to the *poteſtas Patria*, and *poteſtas Dominii*, *poteſtas inſtituendi hæredis*, as to Children; and *alienandi* as to ſtrangers, was amongſt all Nations incident, till the Tyranny of Pontifical, Imperial, and Feudal Laws ſet up Intails, & made the Prieſts Judges, who ſhould be Lawful married, and who ſhould be Lawful begotten Heirs of their Bodies, to be their Succeſſors, whether they would or no, and whether the Children were the Children of Adulterers, or the Husband's.

Intails to Children of Adulterers and not of the Husband.

Secondly, Νόθος is by *Heſychius* and other Authors of approved skill in the *Greek*-Tongue affirmed, to ſignifie *Fictus*, which is, what is feigned or counterfeit, and the word ΥΙΟΣ which in the plural Number is put in the Text *Heb.* 12. 8. ſignifies *Filius genitus*, *natus*, or *naturalis*, and Υἱότης ſignifies *Filiatio* in the true and natural ſenſe, but in the fictitious ſence, which is made *ad placitum imponentis*, it is made to ſignifie Adoption, which is a feigned or counterfeit *Filiation*. Many ways of counterfeiting Sons have been uſed, (1.) When the Wife being Barren, to pleaſe her Husband feigns a great Belly and a Delivery, and preſents him with a ſuppoſitious Child inſtead of her own; ſo is it related of *Algive* the Wife of *Canutus*, that ſhe brought him ſuch a Child, whom he called *Sweyne*, and afterward made him King of *Norway*; and many other examples have been of the like. (2.) When the Perſon who would make himſelf Son deceives the Father; ſo *Iſaac* being blind, *Jacob* putting on Kids-skin-Gloves, the hair left on deceived the old man to beleive him his true eldeſt Son who was but a counterfeit. And I my ſelf knew a Woman in time of the Wars, who having two Sons, the Elder was Twenty Years before ſent beyond Sea, and died there, whereby the younger had the Land of his Father ſetled upon him, but at length the Soldiers in their marches paſſing the Country, one amongſt them of the like Age and Feature as was the Eldeſt Son.

Nothus a counterfeit ΥΙΟΣ.

Son of the Woman, who Twenty Years before died beyond Sea, Quarter'd in the Pariſh where the Woman lived, and being informed by ſome of the Houſe where he Quarter'd, how like he was to that Perſon, and thereupon enquiring out as many particular paſſages as he could, which had paſſed between the Woman and her Son, and others, and what particular marks the Eldeſt Son had, the Soldier went to the Woman's Houſe enquiring for his Father and Mother, whoſe bleſſing he asked, and they being thereat much ſurprized, he told them he was their Eldeſt Son, and what Fortunes Providence had carried him thorough to bring him home again: at which the doubtful Parents examin'd him, and askt him many queſtions to try whether he were their very Son *Eſau* or not, and took more time, and the Woman likewiſe examin'd him in private by her ſelf, but he at laſt ſo perſuaded the Woman, that ſhe beleived, and affectionately received him for her Eldeſt Son who had been thought ſo long dead, till at length the younger Brother who feared to be again diſinherited of what was ſettled on him, with much ado diſcover'd the counterfeit. (3.) When the Mother is Deliver'd of a true Son, and a changling is brought home by the Nurſe or other Artifice inſtead of the true. (4.) When the Father having no natural Son, adopts a Son begotten by another Father; ſo did *Claudius* adopt *Nero*, and many other of the *Roman* Emperors, and many Perſons of private Families, having no Son of their own, convey and ſettle their Names, Titles, Arms, and Lands, to the Son of a ſtranger; now theſe Adopted Sons are all Counterfeit Sons, and neither *Emperor*, nor *Pope*, nor *Biſhop*, nor *Act of Parliament*, nor *Legitimation*, nor *Diſpenſation*, can make theſe true, or natural, or lawful begotten Sons, whom God hathnot made ſo. (5.) When Sons who are not natural, are teſtified to be natural Sons by falſe Witneſſes, which is often practiſed in the Biſhops Courts, ſuch are counterfeit Sons. (6.) When ſuch as are not natural Sons, are teſtified Sons by the Biſhops Certificate, ſuch are falſe and counterfeit Sons, and this way of *Filiation*, *Aliment*, and *Succeſſion*, by the Biſhops Certificate is of all other the moſt wicked and abominable. *Quia Probatio non admittitur in contrarium.* Whence it is concluded, That neither the word Νόθος nor Υιὸς ſeeing they have both a true and natural ſignification, ought not to be tranſlated to words of a counterfeit ſignification. The ſaid Text of Scripture therefore, *Heb.* 12. 8. *Ye are Baſtards, and not Sons*, are falſely tranſlated, and ought to have been tranſlated, *Ye are Counterfeits, and not natural Sons*; for as to the word Νόθος it is manifeſt to ſignifie a Counterfeit, and therefore ought to be ſo tranſlated, and the word Υιὸς 'tis manifeſt it ſignifies not a Son in general; for that comprehends both true and counterfeit Sons; but a natural Son in ſpecial, which only ſignifies a true Son as 'tis oppoſite to a counterfeit: where therefore the *Genus* is tranſlated for the *Species*, or

or the *Species* for the *Genus*, this is groſsly falſe Tranſlation, as hath been ſhewn likewiſe before. *Genus* tranſlated for the *Species*

Secondly, A word of general ſignification ought not to be tranſlated into a word of ſpecial ſignification, and this ſhews the *Latine* Tranſlation, which is *Suppoſititii eſtis & non filii*, is falſe tranſlated, though not ſo wickedly as the *Engliſh*, becauſe a *Suppoſititious* Son is but a *Species* of *Nothus* the *Genus*, as *Virgil* ſays, *Suppoſitos de matre nothos furata creavit*. *Species* tranſlated for the *Genus*.

Thirdly, A word that is *certain* ought to be tranſlated into a word of incertain, ambiguous ſignifications. Now the word *Nothus* in the time it was writ by *Paul*, which was before *Juſtinian*'s and *Pope*'s Heads were hot with their Civil or Canon-Laws, the word therefore ought to be tranſlated in the certain ſignificat wherein *Paul* writ it, which is a counterfeit, and not in the ſignification of what it is made ſince of a new invented *Vocabulum Artis*, by the Civil, Canon, or Common-Law; for then it muſt have been underſtood, all the writers time by way of Prophecy, how *Tribonian*, *Gratian*, *Coke*, *Skene*, and *Grotius*, would expound it, and how the Biſhops would tranſlate it to be a Baſtard, and him a Baſtard whoſe Mother would not give them Money for their Licence to Marry, which was a thing impoſſible for the Chriſtians of thoſe times to underſtand, or how to reconcile the variant and contradictory expoſitions, would in the later days be for gain made on the ſame. Some make *Nothi* and *Flii naturales* all one, as *Nov. 99. de Nothis* makes *Nothus* the natural Son and illegitimate, as *Inſulanus Naturalis Filius à vulgo barbarorum dicitur, qui ſit ex illegitimo toro ſuſcitatus; ſed parum aptè, eſt enim Filius naturalis qui ſanguine & natura eſt tuus, non adoptione factus.* A natural Son is he who is by Blood and Nature thine, and not made ſo by Adoption. *Cato* ſays there is no ſuch word in *Latine* as *Nothus*, nor any of the like ſignification, but that which comes neareſt it is *Spurius*; and *Plutarch* ſays it was a name amongſt the *Romans*, as *Sextus*, and *Decimus*, and *Caius* were, and as other names were, was written ſhort with two of the firſt Letters *S P.* but whether it was a name of honour or diſhonour is not known, as appears by *Hartm. Piſtor. lib. 1. q. juris. q.* 30. only it is ſaid of them, that they were ἀπάτορες fatherleſs, which is leſs ſuſpicious of diſhonour then before, for they called their god *Vulcan* Ἀπάτωρ fatherleſs, and their god *Mars* was brought out by *Juno* without a Father, as they would have us beleive, and the word ἀπάτωρ, or fatherleſs, did ſignifie only an Orphan, whom misfortune had deprived of his Father. And it was therefore true what *Cato* before ſaid, That the *Latines* had no word amongſt them which agreed in ſignification with *Nothus* in *Greek*, and having no ſuch word, they muſt have no ſuch thing; for if they had had ſuch a thing they would queſtionleſs have had a word to expreſs it. So as Anti- A certain word into an ambiguous.

Romans had no ſuch word or thing as *Nothus*.

Chriſtian

Chriſtian *Rome* againſt the fatherleſs is worſe then Pagan *Rome*, and neither Papal nor Epiſcopal Religion is pure, but unclean; for it is declared *Jam.* 1. 27. *Pure Religion, and undefiled before God and the Father, is this, to viſit the fatherleſs*; but it ſeems they think they have a better Scripture of *Coke* and *Littleton* of *non habet ipſum patrem*, to defend them, as if it were a ſufficient cauſe to rob a Child of what is dearer then his life, his good name, and lay Ignominy on him becauſe he is fatherleſs: but let them remember though the fatherleſs hath no Reverend Father in God to own him, he hath a greater, even God himſelf; for ſo he is called, *Pſal.* 68. 5. *Father of the fatherleſs*, and though he is forſaken as *David*, by his natural Father and Mother, yet may he ſay as he ſaith, *Pſal.* 27. 10. *When my Father and Mother forſake me, then the Lord will take me up.* And as there was no *Nothus* amongſt the *Pagan Romans*, ſo there was no illegitimation amongſt them or the *Greeks*, but all natural Children were legitimate, and Probation of *Filiation* was a Probation of *Legitimation*, for there was no ſuch word or thing as Legitimation, or making Children legitimate who were not born ſo; it being impoſſible to make a Child or a Son of ſuch a man who was not born ſo, or to make any not to be the Child or Son of ſuch a man if he were born ſo, till the Biſhops made Marriage a Sacrament, and made infatuated People beleive ſuch abſurdities as were impoſſible to be beleived of any but *à mente captis*, as of tranſubſtantiation of two Perſons into one Perſon, of tranſubſtantiation of the Children of the Wife into Children of the Husband, of making the Child of the man not to be his Child, nor of his Blood, nor of his Sib or Kin, and making the Child born of the Mother not to be her Child, nor ſhe of kin to it, and the like unheard of Fopperies in former Ages: and accordingly *Connan. lib.* 2. *cap.* 16. *num.* 5. ſaith, That amongſt the ancient Lawyers there is no ſuch word to be found as Legitimation, and if not of Legitimation, there could be none of Illegitimation, or Baſtardy. To tranſlate therefore the word *Nothus* into a word of ſo many ambiguous ſignifications as are ſo many Authors variant and contradictory on the ſame, and into a word which was not, nor the thing it is made ſignifie in *Rerum natura* at the time of writing. *Nothus* is a falſe and a foul tranſlation.

Legitimation or Illegitimation of a natural Child impoſſible.

Fourthly, A word in Scripture which is modeſt, ought not to be tranſlated into a word of Scurrility, but *Nothus* or a Counterfeit is a word modeſt, it is therefore filthily and falſely tranſlated into *inhoneſtum & infame vocabulum*, which they would derive a *Sporo Pudendo Muliebri.*

Fifthly, The word *Nothus* doth not revile the innocent Child with the Crime of the Malefactor, but *Coke*, though it be ſaid, 1 *Cor.* 6. 10. *No Revilers ſhall inherit the Kingdom of God*, reviles God's Eldeſt Daughter, Nature, to be a Whore, and her Children to be Baſtards; for he ſaith *Aerd* ſignifies Nature, and Baſe ſignifies *Baſe*, and a Baſtard is a Baſe-

Base-natural, or one born of base Nature; if therefore he makes the Child a Bastard, he must make the Mother a Whore, and by making her Children Base, he makes none Noble but the Children of the Whore of *Babylon*, of whom she is deliver'd by the Man-Midwifry of a Priest in a Temple. There being therefore no such word in the whole Original Scripture, Old Testament or New, which signifies a Bastard or illegitimate Child, nor any such thing amongst the *Hebrews* or Barbarous Nations themselves as illegitimation of natural Children, nor in *Rerum Natura* amongst the wild Beasts, Monsters, and Serpents, as illigitimation of their Young, till that more and monstrous old Serpent and *Romish* Dragon appear'd, described, *Rev.* 12. 3. *Having Seven Heads, and Ten Horns, and Seven Crowns upon his Heads. And his Tail drew the third part of the Stars of Heaven, and did cast them to the Earth: and the Dragon stood before the Woman which was ready to be delivered, for to devour his Child as soon as it was born.* And *Verse* 16. *And the Earth helped the Woman, and the Earth opened her mouth, and swallowed up the Flood which the Dragon cast out of his mouth. And the Dragon was wroth with the Woman, and went to make War with the remnant of her seed, which keep the Commandments of God, and have the Testimony of Jesus Christ.*

Now though none here undertake to unfold Mysteries, or expound Prophecies, yet it will be a more proper Exposition then the Episcopal translation of *Mamzer* and *Nothus*, and their Expositions on the same. If any should say allusively, though not prophetically, and expound Prelacy to be the Dragon with many Heads and Horns, Woman-kind to be the Woman; the multitude of Provincial and Ecclesiastical Laws of Marriage, to be the Flood of Waters cast out of the Dragons mouth, against the Woman; the illegitimation of all Children not born of a Marriage made by a Priest in a Temple, to be the standing of the Dragon before the Woman ready to be deliver'd for to devour her Child as soon as it is born: The People who are *Terræ Filii*, to be the Earth helping the Woman, *Prelacy*, being wroth, and going to make War with Dissentient Protestants, to be the Dragons being wroth with the Woman, and going to make War with the Remnant of her Seed which keep the Commandments of God, and have the Testimony of Jesus Christ. And that these are not the only false translations which Bishops make of the Scripture, appears by the great Linguist *Broughton*, who in his Advertisements of *Corruptions*, affirms to the then Bishops of *England*, That their publick translations of Scriptures is such, as that it perverts the Text of the Old Testament in no less then Eight Hundred Forty Eight places, and causeth Millions to reject the New Testament, and to run into Eternal Flames.

Old Testament false translated by Bishops in 848 places.

Sixthly, To shew that *Coke* needs no other to confute him in the signification of *Nothus*, not to be a Child born out of Wedlock, but a

piece of his own Rhime, I shall recite it, which is by him set down, *Manseribus scortum notho Mœchus dedit ortum*, and is a false Verse; for *No* in *Notho* is short, which might happen by some Error of his Scribe, but the true Verse is in *Calv. Lex.* (whence I suppose he might have it,) *Sed Mœcha Nothis dedit ortum*; which *Mœcha* signifies an Adulteress, which she cannot be unless she is a Married Woman: therefore it is plain, the Rhime it self confutes him, that *Nothus* is not a Child born out of Wedlock, but in Wedlock, which is unanswerable as to him; because *ex ore suo*, though not as to others, who are on better reasons unanswerably answer'd before.

They corrupt the Press, both as to Scripture and Law, and interdict Protestants to write against Papists, or answer them.

Act of Parliament against *Lollards* counterfeit by Bishops.

Coke 3. *part* 40. saith, *There was a Statute supposed to be made*, 5. R. 2. *That Commissions should be by the Lord Chancellor made, and directed to Sheriffs and others, to Arrest such as should be Certified into the* Chancery *by the Bishops and Prelates, Masters of Divinity, to be Preachers of Heresies, and notorious Errors, their Fautors, Maintainers, and Abetters, and to hold them in strong Prison, until they will justifie themselves to the Law of the Holy Church.* By colour of this supposed Act certain Persons that held Images were not to be worship'd, &c. were holden in strong Prison, until they (to redeem their vexation) miserably yielded before these Masters of Divinity to take an Oath, and did swear to worship Images, which was against the Moral and Eternal Law of Almighty God. We have said (by colour of the supposed Statute, &c.) not only in respect of the said Opinion, but in respect also, that the said supposed Act, was in truth never any Act of Parliament, though it was Entred in the Rolls of Parliament; for that the Commons never gave their consent thereunto. And therefore in the next Parliament, the Commons prefer'd a Bill reciting the said supposed Act, and constantly affirmed that they never assented thereto, and therefore desired that the supposed Statute might be anienled, and declared void. For they protested, that it was never their intent to be justified, and to bind themselves and their Successors to Prelates, more then their Ancestors had done in times past: And hereunto the King gave his Royal Assent in these words, *Ysleist au Roy.* And mark well the manner of the penning the Act: for seeing the Commons did not assent thereunto, the words of the Act are, *It is Ordained and Assented in this present Parliament, That*, &c. And so it was, being but by the King and the Lords.

It is to be known, that of ancient time, when any Acts of Parliament were made, to the end the same might be published, and understood

ſtood, eſpecially before the uſe of Printing came into *England*, the Acts of Parliament were ingroſſed into Parchment, and bundled up together with a Writ in the King's name, under the great Seal, to the Sheriff of every County, ſometime in *Latine*, and ſometime in *French*, to command the Sheriff to proclaim the ſaid Statutes within his Bailwick, as well within Liberties, as without. And this was the courſe of Parliamentary Proceedings, before Printing came in uſe in *England*, and yet it continued after we had the Print, till the Reign of *H.* 7.

Now at the Parliament holden in 5. *R.* 2. *John Braibrook* Biſhop of *London* being Lord Chancellor of *England*, cauſed the ſaid Ordinance of the King and Lords to be inſerted into the Parliamentary Writ of Proclamation to be proclaimed amongſt the Acts of Parliament: which Writ I have ſeen, the purcloſe of which Writ, after the recital of the Acts directed to the Sheriff of *N.* in theſe words, *Nos volentes dictas concordias, ſive ordinationes in omnibus & ſingulis ſuis Articulis inviolabiter obſervari, tibi præcipimus quod prædictas concordias, ſive ordinationes in locis infra Balivam tuam, ubi melius expedire volueris, tam infra libertates, quam extra, Publice Proclamari, & teneri facias juxta formam Prænotatam. Teſte Rege apud* Weſtm. 26. Maij. Anno Regni Regis *R.* 2. 5. But in the Parliamentary Proclamation of the Acts paſſed in *Anno* 6. *R.* 2. the ſaid Act of the 6. *R.* 2. whereby the ſaid ſuppoſed Act of 5. *R.* 2. was declared to be void, is omitted: and afterwards the ſaid ſuppoſed Act of 5. *R.* 2. was continually Printed, and the ſaid Act of 6. *R.* 2. hath been by the Prelates ever from time to time kept from the Print. What *Engliſh* Proteſtant can read this without horror? what? doth he not obſerve it? why 'tis that Counterfeit Act of Parliament. 5. *R.* 2. 1382. whereby Biſhops uſurp to be Judges of the Souls and Conſciences of Proteſtants, and to put them in ſtrong Priſon till they conform and ſubmit to the will of the Biſhop; 'tis that Counterfeit Act whereby they uſurp to be Judges of Hereſie, and to make Proteſtants Hereticks when they pleaſe; 'tis that Counterfeit Act whereby they have compell'd the Subjects to ſwear to worſhip their Idols; 'tis that Counterfeit Act whereby they have dragged ſo many Pious Martyrs to the Stake, and burnt them, filling the whole Land with fiery Furnaces; 'tis that Counterfeit Act by which the Biſhops have uſurped Power to deſtroy Religion, Liberty, Propriety, and Lives of all Proteſtant Subjects at their pleaſure; 'tis that Counterfeit Act which was never aſſented to, but diſclaimed, deteſted, abrogated, and declared null and void by the Houſe of Commons. 6. *R.* 2. *Anno* 1383. and hath been yet moſt preſumptuouſly cauſed to be printed as a valid Act by the Biſhops being Maſters of the Preſs; and the true Act of Abrogation. 6. *R.* 2. Whereon all the Subject hath depends, moſt wickedly ſuppreſs'd, and never Printed.

A Counterfeit Act Printed by Biſhops againſt Proteſtants.

Coke 2. *Part. Fol.* 584. saith, And here is to be observed how the Statute of 35. *E.* 1. hath been dealt with since the 17*th.* of *E.* 3. for in an Act that Year, a branch of the Statute of 35. *E.* 1. was recited, That forbad any thing should be attempted or brought into the Realm, which should tend to blemish the King's Prerogative, or in prejudice of his Lords and Commons, which is now wholy omitted; and *Fol.* 585. he saith, Note in the Roll of Parliament of the Statute of 38. *E.* 3. *Cap.* 1. of *Professors*, there are more sharp and biting words against the Pope then in Print, a Mystery often in use, but not to be known of all men; from which examples it is manifest, that this came by the Fraud of the Bishops, who before Printing, were Masters of the Authentick Copies of the Laws appointed for promulgation; and since Printing, are Masters of the Press, to interdict and publish what they will.

Accipe nunc horum insidias & Crimine ab uno,
Disce omnes.

These few Frauds are discover'd in Print against the Interdictors of Printers, which discovery they would likewise have interdicted if they had been able, for these latter Books of my Lord *Coke* were prohibited to be Printed, and got out in the late time of Troubles: but by these it is clear, which were only spoken *obiter*, and without any inquisition after them, that all they are guilty of are not discover'd, and that to give either Spiritual or Temporal Judges Power to interdict the Press, is to give them Power to have what Law, what Gospel, what Text, what Translation, what Canonical, what Apocryphal, what Scripture, what Act of Parliament, what Common Law, what Statute, what Religion, what Justice, what Liberty, and what Slavery they please.

Besides which Power of Fraud and Forgery destructive to all Truth, these further mischiefs follow all interdictions of the Press, but I shall first answer such Objections as are made against the Liberty of it.

Object. 1. First, *If Liberty of the Press should be permitted, Enemies would have it equal with Friends, Papists with Protestants, Hereticks with Orthodox.*

Secondly, *They would Print Blasphemy, Idolatry, Treason, Rebellion, Uncleanness, Calumny, Reviling, Derision, and all manner of Heresie.*

Answ. 1. To the First is answer'd, (1.) That it is impossible to exclude Enemies and Papists from Printing, they being possess'd of so many Transmarine Presses, whence they can with far greater advantage vent their matters, then from any Presses in *England*. (2.) Admit they could be excluded, yet in prudence they ought not, but are more necessary to be admitted then Friends; for those whom we use to call Friends, are *pessimum inimicorum genus Adulantes*, the worst kind of Enemies, Flatterers, who flatter and sooth us up in our Vices, and destroy us, but any truth

of

of our Faults we shall never hear but from Enemies. *Plutarch* therefore calls an *Enemy, a School-Master which costs us nothing.*

2. As to the matters of Blasphemy, Idolatry, or Uncleanness; neither Enemy or Friend will so far dishonour themselves, or their Cause, as to Print them openly, for it is against their interest; As to Treason or Rebellion, who that hath an Enemy, doth not desire to know beforehand, wherein the strength of his Cause, as well as of his Forces lies; and to have the War Proclaimed in Print before it begin, that he may the better provide against. Besides, if there were but a Law made, that nothing shall be printed, without the names of the Author and Printer, with their Additions and Designations: And that all Crimes against the publick, committed by Printing, should be punished by Indictment according to Law; and all injuries to private persons, should be reparable by the parties injured, on their Actions according to Damage: Who would dare make himself guilty of a publick Crime, or private Injury in Print, to which he had set his name?

3. As to matters of Heresie, such as by accident become dangerous to public safety, the prudence of the Legislators, may, where they find cause, prohibit them, both Press and Pulpit; but not in the Thoughts and Consciences of Men: As in the end of the Wars of *Germany*, between the *Lutherans* and *Catholicks* it was Enacted, mutually on both sides on pain of death, *That no* Catholick *should Preach against the* Lutheran *Doctrine, or* Lutheran *against the* Catholick; *but both should enjoy the liberty of their own Consciences to themselves.* This agreement was here made, otherwise those bloody Wars would never have ended, without a total destruction of one of the Parties.

And likewise such a Law were here much more necessary, between dissentient Protestants, who were Brethren, then it was between the *Lutherans* and *Catholicks*, who were mortal Enemies; That no dissentient *Protestant* should Print or Preach publickly, on any point of Ceremonial dissentiency, or other matter not necessary to Salvation, except in such matters as are particluarly allowed by Supream Authority, to exclude Popery; there being Field-room enough in the Moral Law of God, to exercise gifts in Preaching; and matters which have the promise of this life, and of that to come; and no cause for any to complain, who have liberty likewise of Conscience to use what *Protestant* Ceremonies, and Form of Worship they will to themselves, though they have not power to compel the Consciences of others, who are dissentients. But if *Protestants* are tolerated to Print or Preach against one another, this is the thing the Papist would have, and knows will in the end make them both a prey to himself.

But though *Protestants* ought not to preach one against another, yet the juncture of Affairs being not at present in great *Britain*, as before

mention'd

mention'd in *Germany*, and an appearance of War Plotted by the *Papiſt*, rather to begin than end with the *Proteſtant*, the Biſhops ought not to be ſuffer'd to interdict either Preſs or Pulpit to the *Proteſtants* againſt them.

To come at length to the further miſchiefs inſuing the Interdiction of the Preſs; any Interdiction of the Preſs (exeept in Caſes before mention'd) either to Friend or Enemy, is a diſhonour to the *Proteſtant* Religion, as if it dared not ſuffer it ſelf to be diſputed, or to meet an Enemy in the open field; whereas in truth, it is not *Proteſtancy* but *Epiſcopacy*. 'Tis not the Moral Law which is the *Proteſtant* Law, but the Ceremonial which is the *Popiſh* Law, which dares not encounter the ſhock of an Enemy: And 'tis Fiction and not Truth, Vice and not Vertue, which fears either Preſs or Paſquil.

2. The Foreign Preſſes being impoſſible to be interdicted to the *Papiſt*, if the *Engliſh* are interdicted to the *Proteſtant*, he is thereby ſilenced, and prohibited to anſwer the *Papiſt*, let him preach what he pleaſeth.

3. By Interdiction, the profit of the *Engliſh* Proteſtant Print-houſes will be tranſported to Foreign Papiſts; which will be a great diſcouragement to ſo neceſſary a Trade in *England*, and prejudice to the Proteſtant Religion, and Policy.

4. The Interdiction of the Preſs will multiply the greater evil of Libels and Lampoons.

It increaſes unlearned Sects and Hereſies, who if drawn to Print would either not be able to form their Doctrine in Principles or Poſitions; or if they were, they would appear ſo abſurd as would be fit to imploy boys to laugh at, rather than Doctors to confute: Such were *Mahomet's*, whoſe *Alcoran* is not therefore ſuffered to be Printed, or Tranſlated.

5. It cauſes the more dangerous way of ſpreading Hereſies, both learned and unlearned, to be neglected how to prevent, which is the ſecret creeping into private Houſes, leading Captive ſilly Women, with whom they walk like the Peſtilence in the dark; whereas if they appeared in Print or publick Preaching, they might be known where they are, and oppoſed.

6. It ſtops the truth of all intelligence. which is ſo invaluable a Treaſure, and difficult to be got into the Gates of Princes.

7. A free Preſs is the pulſe of the Body politic, from which is impoſſible for the wiſeſt State-Phyſician to diſcern, or prevent the public Diſtempers, unleſs it is ſuffer'd to beat free without a Ligature.

8. It ſtops all juſt cauſes of complaint, and appeal of the Subject to the King and Parliament, againſt Judges and great Officers, both Spiritual and Temporal. It was my own ill fortune to be prickt Sheriff of

of a County, which enforced me to draw a Petition to be preſented to the King and Parliament; deſiring ſome remedy againſt the old Popiſh Oath, continued to be impoſed on Sheriffs; wherein they ſwear to deſtroy the Proteſtant Religion, under the name of *Lollary*; and likewiſe to be relieved againſt the extortions of Officers of the *Exchequer*, on Sheriffs: which not knowing how otherwiſe conveniently to Addreſs, I appointed the Meſſenger to get a Licenſe to Print; which he tryed to do, but though there was nothing in it but Humility and Truth; as who dare preſent otherwiſe to the Legiſlative Power? The Licenſer Swore *He would not Licenſe it for Five Hundred Guinneys*, whereby it could not be done.

9. It ſtops all preſentments by the People to the King and Parliament of public grievances, in regard the extent of the Three Kingdoms is great, and remote; and therefore neither fit nor poſſible, multitudes ſhould come ſo far to preſent Petitions in perſon; and if not done in perſon, there are ſo many Papiſts, and Foreign Agents, and their favourers in the way, as may, and do often intercept from the King's knowledg, the humble applications of his Proteſtant Subjects, as is eaſie to do, when perhaps compriſed only in one ſheet of Paper. To avoid therefore the ſtifling of all juſt complaints of the Subjects, and the ill conſequences which have been too often occaſioned thereby, of preſenting Petitions by Tumults and Armies: It is far more ſafe and equal, that the Preſs ſhould be open to the People in all public Addreſſes to Supream Authority; it being many times a ſufficient ſatisfaction to them, if they underſtand that the King and Parliament do but vouchſafe to hear their complaints and deſires, though they think it not fit to grant them: And a Child will often times awe his Enemies from harming him, if he do but threaten them he will tell his Father, where they know he hath that liberty given him.

10. It appears by experience, That the Liberty of the Preſs in *Holland*, and other Foreign States, where permitted, not only bring no inconveniences, but very great benefits and advantages to the People.

By pretence of giving the King the name of Supremacy, *they have taken the Thing to themſelves.*

The word *Supremacy*, is of ſo infinite Extent, as it can properly be attributed to none but the Divine Power of God; and the words, *Juriſdiction and Government*, with which it is joyned in the Stat. 1. *Eliz.* 1. which gives the Form of the Oath of Supremacy, are of that Vaſt Latitude, that in their large literal Senſe they include all Legiſlative,

tive, Judicial and Executive Power amongſt men, and the Subject matters over which it is exerciſed, are all Divine and Human Rights; yea what is more, all things Spiritual and Eccleſiaſtical, as well as Temporal, circumſcribed in nothing to difference it from the Papal Supremacy pretended over Heaven, Earth and Hell, but the Bounds of her Majeſties Dominions, within which no wiſe man ever believed Heaven and Hell to be contained, though the Biſhops under pretence of the ſame Supremacy given her Majeſty which the Pope had, have in the Royal name exerciſed the ſame, not only in matters of Marriage, Filiation and Succeſſion, concerning which I intend here only to contend with them; but in all other matters of Oppreſſion of the Conſciences, and Rights of the Subjects both as to Religion, Liberty and Propriety, as high as ever the Pope did, though never any ſuch Supremacy was intended either by the Statute, or Oath to make Canons Judg or Execute, but what hath before been, or lawfully may be exerciſed or uſed, (ſo the word *lawfully*, refers to time paſt, as well as future,) and that neither Pope nor Biſhops had ever any lawful Supremacy or Power to make or uſe Canons, or Eccleſiaſtical Laws concerning Marriage, Filiation or Succeſſion, but did the ſame by Uſurpation in this Realm, is ſufficiently proved before againſt my Lord *Coke*'s Eccleſiaſtical Law, *P.* 31. and the Form of the Oath makes the Eccleſiaſtical Supremacy no higher than the Temporal Supremacy, which every one knows in all Acts of Legiſlation, is joyntly in the King and Parliament, and not ſingly in either Eſtate. And therefore Biſhops can claim to exerciſe no Supremacy from one, unleſs they have it from both; nor of any matter which is not within the Kings Dominions, or of any other human Power, but only belongs to the Kingdom of God. And that Pious Queen her Self, who began her Reign with the Statute and Oath of Supremacy, ſoon found the words ſo general, and thereby obſcure, and the letter wreſted to ſuch extremity by Epiſcopal Expoſitions, that ſhe endeavour'd by a Subſequent Declaration publiſhed, to have explained and limited according to the true intention; but the ſame not being done by Act of Parliament, became not of that Force was deſired, and left the Biſhops more liberty to exerciſe more Supremacy in the Royal Name by pretence, then was in truth intended in the Act or Oath. And the ſubtlety wherewith they gloſſed their deſigns, appears in the Act it ſelf, of which they were the chiefeſt contrivers. For firſt, they begin with a *Nolo Epiſcopare*, alas; as if they intended never to Epiſcopate or ſeek for Eccleſiaſtical Supremacy again; for they utterly aboliſh all Foreign Power which was the Popes, and all uſurped Power which was their own, and annex all Spiritual and Eccleſiaſtical Juriſdiction to the Crown, which includes the Juriſdiction of Marriage, Filiation and Succeſſion, and many other matters: for they knew, if

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any part of the Supremacy had been left at *Rome*, they could never have got it to *Canterbury*; and though the one eaſed the Burden of the Subject no more than the other, but rather by the nearneſs of the Taſk-maſters increaſed it to blind the people, they pretend all to be for the Queen; and as if neither Pope nor Prelate ſhould have to do with it, they incited the Queen, like the Eagle of Divinity, to Soar to the height of Spiritual and Eccleſiaſtical Supremacy, to no other intention, than when ſhe had taken the Quarry, they might take it from her and exerciſe it themſelves to their own profit, and not hers: for the next Clauſe in the Act is, That the Queen may aſſign Commiſſioners to exerciſe all manner of Spiritual and Eccleſiaſtical Juriſdiction, which they knew would be to Biſhops; but they abuſing this Power they had got in the High Commiſſion Court, and other Commiſſions, this Clauſe or Branch of Aſſigning Eccleſiaſtical Juriſdiction by Commiſſion, is repealed 17. *Car.* 1. *Cap.* 11. & 13. *Car.* 2. *Cap.* 12. but the annexation to the Crown and Oath of Supremacy ſtill continuing, they continue ſtill in the King's Name to exerciſe all Acts of Supremacy, both of Legiſlation by continuing and making Canons, and of Judgment and Execution above all Appeal, in all matters concerning *Marriage, Filiation, and Succeſſion*, or more than they were given Power by any Commiſſions to do while they continued, which makes them who exerciſe Acts of Supremacy, incapable of being Judges Delegate.

By pretence of giving the King Supremacy by the Ceremonies of Coronation and Unction, they take it from him to themſelves.

Coronation is the Inveſtiture of a King in his Kingdom, by the Ceremony of Tradition of a Crown, or ſetting it on his Head; ſo is the Inveſtiture of a Biſhop, by Tradition, of a Ring and Staff or Croſyer; and of a Soldier in Feudal Tenures, by Tradition of a Ring, Sword, or Spear.

The Perſons who have uſed to make Traditions of Crowns, have been in Kingdoms where the Prieſt hath the Supremacy of the King; as in *Pagan* Kingdoms by the High Prieſt, and in *Chriſtian* Kingdoms by the Pope or Biſhop; and in *Germany* by both; for the King of the *Romans* is uſed to receive three Crowns, one of Iron, another of Silver, and another of Gold. That of Iron he receives of the Biſhop of *Coleyn* in *Aquiſgrave*; that of Silver of the Arch-Biſhop of *Millayne* in *Italy*, in the ſame City, and in the Church of St. *Ambroſe*. That of Gold, of the Biſhop of *Rome*, in the Church of St. *Peter*, at the Altar of St. *Maurice*. Where Note, That Gold may be bought too dear,

and that three Magpies have got by the Bargain Supremacy over the *Roman* Eagle.

But in ſuch Kingdoms where the Supremacy hath been in the King above the Prieſt, the Tradition of the Crown hath been by the People or their Repreſentative, which we call here a Parliament, or one appointed by them, in regard a multitude cannot all do it in perſon.

It is likewiſe to be obſerved, That there is a difference between aſſuming a Kingdom by Conqueſt, and by Contract; for he that comes in by Conqueſt, takes the Crown without Tradition from Clergy or Lay, whether they will or no, or exerciſes the Power of the Sword to govern at his Will without a Crown, as did the old *Roman*, and now do the *Ottoman* Emperors, who are never Crowned, but wear Turbans, whereby no Foreign Caliphs, nor their own Mufti's can uſurp Eccleſiaſtical Supremacy: for whoſoever accepts Tradition of a Crown, or any other Symbol or token of Inveſtiture, lays aſide all Titles by Conqueſt, and receives a Kingdom by Contract with the people, and takes an Oath to Govern according to the Laws Contracted; which Contract if made with Biſhops, and they have the Power of Tradition of the Crown, (if we will believe *Henry* the Second) they will impoſe their own Terms of Supremacy and every thing elſe which concerns their profit; and how Imperious they have been in arrogating to themſelves only the Right of Tradition of the Crown, I ſhall only mention one Example in the Reign of *Henry* the Firſt, who after the death of his firſt Queen *Matild*, married a ſecond called *Adelira*; and when ſhe was to be Crowned, *Ralf*, Arch-Biſhop of *Canterbury*, who was to do the Office, came to King *Henry* ſitting in his Chair of State, asking *who had ſet the Crown on his Head?* The King anſwering, *I have now forgotten, it was ſo long ſince. Well*, ſays the Arch-Biſhop, *who ever did it, he did me wrong, to whom it belonged, and as long as you hold it thus, I will do no Office at this Coronation* Then ſaid the King, *Do what you think good.* Whereupon the Arch-Biſhop took the Crown off the King's Head, and after, at the intreaty of the people, ſet it on again, and then proceeded to Crown the Queen. Here appears a great difference between the Tradition of the Crown by a Biſhop, and by the People; for the Biſhop arrogates the Right, as the Pope by his Spiritual and Eccleſiaſtical Supremacy, and compels the Prince implicity to acknowledg the ſame, by either receiving the Original Tradition, or Confirmation of his Crown from him, as one that hath power *Jure Divino* to give it; but where it is received from the People or Parliament, neither Superiority nor Supremacy is imply'd, nor comes in queſtion, but only the form of the Contract; for Superiors, and Inferiors, and Equals, may all Contract alike, and bind themſelves alike, whether Superior or Inferior, without any regard or conſideration of the one or the other.

The infolency of an Arch-Biſhop.

Then

Then for the Supremacy Spiritual given by Unction by a Biſhop, they are ever citing their old Popiſh rule, *Reges ſacro oleo uncti Spiritualis Juriſdictionis ſunt capaces*, Kings anointed with holy Oil, are capable of Spiritual Juriſdiction, whereby they make an Appearance, as if by their Oil they gave Supream Spiritual Juriſdiction; whereas in truth they thereby circumvent Princes, and make them implicitely acknowledg the Biſhop who anoints, to be a greater Supream than the Anointed: for the Biſhop aſſuming without Miracle or ſign of Miſſion to Conſecrate the Oil, he thereby pretends he hath Power *Jure Divino* to Conſecrate and Anoint as ſome Prophets had by Miracle amongſt the *Jews*; and then from Chriſt's Argument, *Matth.* 23. 17, 19. *Whether is greater, the Gold, or the Temple, which Sanctifieth the Gold? the Gift, or the Altar which Sanctifieth the Gift?* infers, whether is greater, the Temple, or Biſhop who Conſecrates the Temple? the Oil, or Biſhop who Conſecrates the Oil? and whether is a greater Supream, the Perſon Anointed, or the Biſhop who Anoints and Conſecrates the Anointed? So it was by pretence of Conſecration of Crowns and Oils, by which the Pope firſt, and ſince the Biſhop, hath uſurped Supremacy over Princes, and ſecretly ſteal the Supremacy of that Spiritual Juriſdiction to themſelves, which they pretend to give them. But where the Tradition of the Crown or Unction is by the People or their Repreſentative the Parliament, according to Contract between them and the Princes, they never pretend any ſuch thing as Conſecration in either, but a civil Contract obliged by mutual Oaths.

Anointing ſafer for Princes by a Lay-hand, and with common Oil, than with Oil Conſecrate.

To ſhew ſome farther Authority, therefore, that never any Pope of *Rome*, or *Ralf* of *Canterbury*, or other Biſhop, had any Authority from Chriſt in the New, or the Prophets or Prieſts in the Old Teſtament, to make Tradition of a Crown to any Temporal Prince, but the ſame belonged to the People or their Repreſentative, who were to be Subjects: It is evident, (1.) as to Chriſt, *John* 18. 36. *His Kingdom is not of this World.* (2.) He never had any Crown but that of Thorns, *Matth.* 27. 29. Nor any Robes but the ſeamleſs Coat, *John* 19. 23. As to the Prophets and Prieſts in the Old Teſtament, they never made Tradition of any Crown to any King of *Iſrael* or *Judah*, but they received them from the People, (ſuch as wore them) and not from any Prophet or Prieſt; for though *Nimrod*, as is already mention'd, alledged or feigned before his Uſurpation of the firſt Monarchy, that God ſhewed him miraculouſly a Crown in the Clouds, and *Conſtantine* likewiſe alledged or feigned, that God ſhewed him miraculouſly a Croſs in the Clouds, yet never any material Crown or Croſs dropt from the Clouds, neither doth it appear in Scripture, or any Hiſtory, that any material Crown was ever by Miracle made by God, or ſent by any Prophet or Prieſt, who ſhould have Authority to make Tradition thereof, and there-

by give Inveſtiture of a Kingdom, nor Robes; for though, *Gen.* 3. 21. *God made Coats of Skins and clothed* Adam; and *Matth.* 6. 30. *clothed the Lillies*, yet it is before ſaid, *Solomon in all his glory was not arrayed like one of theſe*: Which ſhews, though God made the Lillies, he made not *Solomon*'s Robes. And the Prophet *Ahijah*, 1 *Kings* 11. 30. though he propheſied the Kingdom to *Jeroboam*, gave him neither Crown nor Robes, but rather diſrobed him; *for he caught his new Garment he had on, and rent it in twelve pieces, and gave him ten of them.* And they were the People only that gave him the Inveſtiture by Crown and Robes, if thoſe Ceremonies were at all uſed; for it is ſaid, *Cap.* 12. 20. *The People ſent and called him unto the Congregation, and made him King over all* Iſrael: *there was none that followed the Houſe of* David, *but the Houſe of* Judah *only.* And *Verſe* 24. It appears, that this was from God; yet were not the Prieſts hand in it to Crown him, for they would not forſake the Sacrifice at *Jeruſalem*; which, *Verſe* 27. made *Jeroboam* to fear, that if the people ſhould go thither to ſacrifice, they would again return to *Rehoboam*, and cauſed him, for prevention, to ſet up the two Golden Calves at *Dan* and *Bethel.* As to the Coronation of *Saul* and *David*, we find *Saul* had a Crown, for, the *Amalekite* 2 *Sam.* 1. 10. who tells *David* he ſlew him, ſaith, *I took the Crown that was upon his Head, and the Bracelet that was on his Arm, and have brought them hither unto my Lord.* (1.) It appears not that *Samuel* gave him this Crown, neither is it probable; for as hath been ſaid before, it appears not in any Hiſtory, that God ever ſent a material Crown by any Prophet; and as to the *Jewiſh* Prieſts Cuſtom they could have none, *Saul* being the firſt King in that Kingdom; and Law they could have none for the Prieſt to make Tradition of the Crown to the King, for *Moſes* mentions no ſuch thing: therefore it was done by the People, who were of neceſſity to ſhew their aſſent and acknowledgment, by ſome external Ceremony of acknowledgment of their Governor, which after the manner of the Nations, after whoſe example they deſired to have a King, was by Tradition of a Crown, and bringing him Preſents; which Preſents appear, 1 *Sam.* 10. 27. to be made by the People, and not the Prieſt; for it is there ſaid, *The Children of* Belial *ſaid, How ſhall this man ſave us? and they deſpiſed him, and brought him no Preſents.*

Coronation of *Saul*, not by the Prieſt, but People.

As to the Coronation of *David*, it was in a Kingdom he obtained by Conqueſt, made by himſelf, by taking the Crown from the Conquer'd King's Head, and ſetting it on his own head without Prophet, or Prieſt, or Contract with the People. 2 *Sam.* 12. 26. *And* Joab *fought againſt* Rabbah *of the Children of* Ammon, *and took the Royal City, And* Joab *ſent Meſſengers to* David, *and ſaid, I have fought againſt* Rabbah, *and have taken the City of* Waters. *Now therefore gather the reſt of the People together, and encamp againſt the City, and take it, leſt I take the City, and*

Coronation of *David*, on a Conqueſt, by himſelf.

it

it be be called after my name. And David *gather'd all the People together, and went to* Rabbah, *and fought againſt it, and took it. And he took their Kings Crown from off his Head, (the weight whereof was a Talent of Gold, with the Pretious Stones,) and it was ſet on* David's *Head*: Thus appears Coronation to be over a Conquer'd People; but when *David* hath to do with a free Peop'e of *Judah* and *Iſrael*, it appears, he neither aſſumed the Crown himſelf with his own hand, nor received Tradition or Inveſtiture of any Prophet or Prieſt of the ſame, but from the People, on Contracts mutually agreed. Yea not only the Crown, but the Anointing it ſelf; which ſignified the Kingdoms, was given by the People; or, which is all one, by their Repreſentative in Parliament, and not by the Prieſt, as will appear from the Texts following, *viz.* 1 *Sam.* 16, 13. where it is ſaid concerning *David*, when he was brought before *Samuel*, *Then* Samuel *took the Horn of Oil, and anointed him in the midſt of his Bretbren: and the Spirit of the Lord came on* David *from that day forward.* 2 Sam. 2. 4. *The men of* Judah *came, and there they anointed* David *King over the Houſe of* Judah. And 2 *Sam.* 5. 1. *Then came all the Tribes of* Iſrael *to* David *unto* Hebron: And *Verſe* 3. *So all the Elders of* Iſrael *came to the King to* Hebron, *and King* David *made a League with them in* Hebron *before the Lord: and they anointed* David *King over* Iſrael. And 1 *Chron.* 1. 1. *Then all* Iſrael *gather'd themſelves to* David *unto* Hebron: And *Verſe* 3. *Therefore came all the Elders of* Iſrael *to the King to* Hebron, *and* David *made a Covenant with them in* Hebron *before the Lord, and they anointed* David *King over* Iſrael, *according to the word of the Lord by* Samuel.

Coronation of *David* on a Contract, by the People.

By which appears firſt, that the anointing by *Samuel* of *David*, gave him no Inveſtiture of the Kingdom; for *Saul* was then alive, but only he propheſied by this he ſhould be King, and Succeſſor after *Saul*'s death, and by Miracle prepared and made him capable and fit to execute the Office, by giving him from that time the Spirit of God; which Miracle likewiſe followed the anointing of his Predeceſſor *Saul*, 1 *Sam.* 10. 1, to the 12*th. Verſe*. But there is no ſuch Miracle enſues from Epiſcopal Unction or Conſecration, neither do they ſhew any ſign of Miſſion, to Anoint as *Samuel* did; but every man that is born hath a ſign of Miſſion from God to Contract with that Prince, under the protection of whoſe Sword he happens to be born, to yield him Subjection for Protection, and to concur with the whole Body of the other Subjects, to preſent him with a Symbol or ſign of the ſame, with a Crown or Oil, as here the men of *Iſrael* and *Judah* do to *David*.

2. That the Anointing which gave *David* the Inveſtiture of the Kingdoms, was made by the Repreſentative of the People in Parliament, and not by the Prieſt; for it is ſaid, That all the Tribes, and all *Iſrael*, and all the Elders, which were a Senate or Parliament, to treat for the People,

David anointed by his Parliament.

People, and make a League and Covenant with the King; for it was impossible for him otherwise to treat with so great a multitude as all *Israel*, had they not agreed to Elect a fit Representative for them; therefore it is said, The Elders anointed *David*, and no mention made of the Priest; neither had the Priest any Law of *Moses* to anoint Kings.

3. That as there was no Crown sent *David* from Heaven for his Coronation, whereby Pontifical men might pretend to have the disposing, so there was no Oil sent thence for his Anointing, but he received both from the People. And surely the Mission of the Oil of *Rhemes* thence is as great a Fable, as of the Crown of *Nimrod*, or of the Image which fell from *Jupiter*; neither did there need any Consecration of either, for by the Customs of most Nations, Crowns and Unctions were but civil Ceremonies of Honour given to the Parties which received them, not only in Elections of Kings, but almost in all other Solemnities, as Military Triumphs, Olympick and other Games, yea even in their ordinary Feasts, both of *Ægyptians*, *Greeks*, and *Romans*.

Habent Unctæ mollia serta Comæ. Ovid.

Which shews both Crowning and Anointing of their Guests, with Garlands or Crowns of Flowers, and Unction with Oil of the Olive, both which materials, though more properly made by God, than Crowns of Gold and Oils confected and Consecrated, yet were esteemed but as civil Ceremonies, and were administred by Lay-hands without a Priest. And of this civil Festival Honour of Anointing used amongst the *Jews*, as well as other Nations, Christ is pleased to take notice, *Luke* 7. 36. *My Head with Oil thou didst not anoint, but this Woman hath anointed my Feet with Ointment.* And though both Coronation and Unction were but civil Ceremonies, and of humane Institution, where no Miracle testified a Divine, yet is *David* called God's Anointed, more truly than if he had been anointed by the Priest, seeing God gave the Priest no Mission, but yet himself turned the Hearts of the People by the civil signs of Coronation and Unction, to acknowledg *David* for their Sovereign; for which he himself giveth thanks and saith, *Psal.* 18. 47. *God subdueth the People under me.*

4. That *David* doth not make a League and Covenant with the High Priest, but with his Parliament, who were the Convention of Elders who anointed him.

5. That though there had been long Civil Wars between *Judah* who followed *David*, and *Israel* who followed *Ishosheth* the Son of *Saul*, and *Abner* his General was dead, and *Ishosheth* was dead, and there remained with him Victorious and Veteran Armies; yet neither *Judah* nor *Israel* anointed him, till he had first made with them a League and Covenant.

6. From

6. From hence may be diſcover'd the great Myſtery of Iniquity, whereby Popes have terrified Emperors and Kings as their Vaſſals, to receive Crowns and Unctions from them, which hath been only by perſuading That none but Biſhops could Crown or Anoint them; the manifold miſchiefs of which to Princes and People, are too long here to be recited; only whoſoever will conſider them, will find it clear, That Biſhops who have pretended, or may pretend to ſo dangerous a Tenent, as, That none but they have Right to make Coronations and Unctions, are no fit Judges of Succeſſions to Crowns.

They aſſume in the Judgment of all matters concerning Marriage, Filiation, Aliment, and Succeſſion, to be above Appeal to the Kings Courts.

It hath been already ſhewn, that Biſhops by aſſuming a Power *Jure Divino*, without ſhewing a ſign of Miſſion, and by falſe tranſlating Scripture, and by corrupting and interdicting the Preſs, exerciſe a Power ſuperior or equal to the Legiſlative; from which doth follow, That ſuch as are Legiſlators, or aſſume or exerciſe ſuch Power, ought not to be Judges Delegate. (1.) Becauſe Legiſlation Supream, and Judgment Delegate, are two diſtinct Offices, and ought not to be confounded. (2.) Becauſe it is Repugnant, that a Legiſlator ſhould be a Delegate to himſelf; for in *Preſentia Majoris ceſſat poteſtas Minoris*, the leſſer Power is loſt in the greater. (3.) If wrong Judgment happen to be given, there can be no appeal but to thoſe who did the Wrong; whereby they become Judges and Parties, and Judg in their own Caſe. (4.) A Power Delegate to Judg without Appeal, ceaſes to be a Delegate Power, and is greater than the Legiſlative, which Power that it is aſſumed by the Biſhops in all Matrimonial Cauſes, is the thing next to be ſhewn.

Of the abominable Judgment paſſed by the Common Law Judges in Kennes *Caſe*, Coke lib. 7. 42. *whereby they gave away the Supremacy of the King's Courts to the* Biſhop, *and made them in all Cauſes Matrimonial, ſubject to no Appeal.*

Mich. 4. *Jac.* In the Court of Wards between *Thomas Robertſon*, and *Elizabeth* his Wife, *Plaintiff*; and *Florence* Lady *Stallenge*, *Defendant*; The Caſe was, This *Chriſtopher Kenne* Eſq; was ſeized of the Mannor of *Kenne* in the County of *Sommerſet*, holden by Knights Service *in Capite*, and 37. *H.* 8. *de facto* married *Elizabeth Stowell*, and had Iſſue

Martha

Martha the Mother of *Elizabeth* one of the now *Plaintiffs*; and after, 1. & 2. *Ph. & Mar.* in the Court of *Audience*, between the ſaid *Chriſtopher Kenne*, *Plaintiff*; and *Elizabeth Stowell*, *Defendant*; the Judg there gave a Sentence in theſe words, *Pretens' tractat' contract' ſponſalia & Matrimonium quin verius Effigiem matrimonij inter* Chriſtopherum Kenne & Elizabeth Stowell *in Minore & ſua impubertatis ætate eorundem aut eorum alterius de fact' habit' contract' & celebrat' fuiſſe & eſſe eoſdemq;* Chriſtopherum & Eliz. *tam tempore contractus & Solemnizationis dict' pretens' matrimonij quam etiam continuo poſtea idem matrimonio pretens' & Solemnizationi ejuſdem diſſenſiſſe contraveniſſe Reclamaſſe & Reluctaſſe ac eo pretextu hujuſmodi Pretens' tractat' ſponſalia & matrimonium de jure nullum & nulla irritum & irrita caſſum & caſſa invalidum & invalida & minus efficax & ineffacia fuiſſe & eſſe viribuſq; juris caruiſſe carere & carere debere Nec non Antedictos* Chriſtopherum Kenne & Eliz Stowell *quatenus de facto fuerunt ad invicem matrimonio ut predicitur copulat' ab invicem Separand' & divorciand' fore debere pronunciamus decernimus & declaramus Eoſq; Separamus & Divorciamus eiſdemq;* Chriſtopher' & Eliz. *licentiam & Libertatem ad alia vota convolanda concedimus tribuimus & impertimur per hanc Sententiam noſtram definitivam ſive hoc finale noſtrum decretum quam ſive quod ferimus & promulgamus in hiis Scriptis* &c.

And after the Divorce, the ſaid *Chriſtopher Kenne* Eſpous'd and took to Wife *Elizabeth Beckwith:* And after, *Anno* 5*th. Eliz.* before certain Commiſſioners Eccleſiaſtical, the ſaid *Elizabeth Beckwith* Libelled againſt the ſaid *Chriſtopher Kenne*, That before the Marriage between them contracted, he had Married with *Elizabeth Stowell*; on which proceſs was awarded againſt *Elizabeth Stowell pro intereſſe.* And upon due examination of the Cauſe, it was Sentenced, That the Marriage between the ſaid *Chriſtopher Kenne*, and *Elizabeth Beckwith*, was lawful, and Sentenced them *ad Exequenda Conjugalia obſequia*, &c. And that the ſaid *Chriſtopher Kenne* was never lawfully Eſpouſed unto the ſaid *Elizabeth Stowell*; and after the ſaid *Elizabeth Beckwith* died, after whoſe death the ſaid *Chriſtopher* took to Wife the ſaid *Florence*, by whom he had Iſſue one Daughter, and called *Elizabeth*, and died. And *Anno* 36*th. Eliz.* it was found by Office in the County of *Sommerſet*, by Force of a *Mandamus*, after the death of the ſaid *Chriſtopher Kenne*, that the ſaid *Elizabeth Kenne* was his Daughter and Heir, who was within Age, *Viz.* of the Age of Ten Months. The Queen granted her Wardſhip to Sir *Nicholas Stallenge* and the ſaid *Florence* then his Wife, on which the ſaid *Martha* alledged her ſelf to be Daughter and Heir to the ſaid *Chriſtopher Kenne*, and with her Husband *Silveſter Williams*, Exhibited their Bill in the Court of Wards againſt the ſaid Sir *Nicholas*, and *Florence*, alledging, That the ſaid *Martha* was Daughter and Heir of the Body of the ſaid *Elizabeth Stowell* his lawful Wife, and that they the

ſaid

ſaid *Chriſtopher* and *Elizabeth Stowell* at the time of their Marriage in *Anno* 37. *H.* 8. were both of them above the Age of Conſent, and that they Cohabited together Nine or Ten Years before the ſaid ſuppoſed Divorce; during which Cohabitation the ſaid *Martha* was procreate between them, and therefore pray they may have Licenſe to Traverſe the ſaid Office. To which Bill the ſaid *Nicholas* and *Florence* put in their anſwer, and the *Plaintiff* examined divers Witneſſes, and before Publication, Sir *Nicholas* dies; and thereupon the ſaid *Silveſter* and *Martha* exhibited a Bill of Reviver againſt the ſaid *Florence*; and after, *Martha* having Iſſue *Elizabeth* the Wife of the now *Pl.* died, after whoſe death the ſaid *Thomas Robertſon* and *Elizabeth* his Wife, bring a new Bill of Reviver to revive the firſt Sute, in which the Witneſſes were examined; and this Caſe was refer'd to *Fleming* and *Coke*, Chief Juſtices, and *Tanfeild* Chief Baron, and *Selverton* and *Williams* Juſtices, and *Sing* and *Altham* Barons of the Exchequer.

If it be asked, for what reaſon was ſuch a Sentence given? my Lord *Coke* nor the reſt will neither tie the Biſhop nor themſelves to ſhew any; for he ſaith, The lawfulneſs of Marriage belonging originally to be tried in the Eccleſiaſtical Court, if the Eccleſiaſtical Judg (that is, the Biſhop) Sentence a Marriage Null, We (that is, the Judges of the King's Courts) ought to give Faith (that is, implicit Faith) to their Sentence, as they do to our Judgment, whether true or falſe, right or wrong, reaſon or no reaſon; and ſo he ſaith, Where the original cauſe of Sute concerning Marriage belongs to the Common Law Courts, the Eccleſiaſtical Judg is to give like Faith to them; as 22. *E.* 4. in *Corbets* Caſe, which was this, Sir *Robert Corbet* had by *Elizabeth* his Wife two Sons, *Robert* the Elder, and *Roger* the Younger, and dies; *Robert* the Elder being under the Age of Fourteen, takes to Wife one *Matilda*, and they dwell together till full Age, *Et habuerunt carnalem copulam, & cogniti & reputati pro viro & uxore palam.* And after the ſaid *Robert* put off the ſaid *Matilda*, having no Iſſue by her, and Married one *Lettice* in the life of the ſaid *Matilda*, and hath Iſſue by her *Robert*, and dies; *Lettice* Preached openly, that ſhe was the lawful Wife of *Robert*, and her Son a mulier, *Roger* the Son of Sir *Robert Corbet*, ſues in the Spiritual Court to Reverſe theſe Eſpouſals between *Robert* his Brother, and *Lettice*; for which *Lettice* ſues a Prohibition. In which Caſe it was Reſolved, (1.) That if *Robert* and *Matilda* had had Iſſue, and had been unjuſtly Divorced, and after *Robert* had Married *Lettice*, and had Iſſue and died, that as long as the unjuſt Divorce had continued, the Iſſue of *Matilda* could have had no remedy at Common Law, the ſame gives ſo great Faith to the Sentence of the Biſhop. (2.) That here *Roger* might ſue at Common Law, notwithſtanding the ſecond Marriage, in regard the ſame was void, being made while the firſt Wife lived. On which may

be noted, the injuſtice of the Biſhops, being above Appeal in Judgment in theſe particulars, (1.) Here is a lawful Matirmony Conſummate by the Birth of a Child, and two Perſons thereby indiſſolubly joined together, by the Act and Law of God, put aſunder by the Biſhop and his Papal Law. Here is a Diſpute from Generation to Generation concerning the Validity of a Marriage, and Succeſſion to an Inheritance: Againſt the Marriage is alledged, That the ſame was declared void by a Sentence of Divorce, or rather of Nullity given by the Biſhop. Againſt it is anſwered by *Elizabeth* a Deſcendent of the ſaid Marriage, and the right Heir to the Inheritance, that the cauſe of the ſaid Sentence was falſe. And ſhe offer'd to prove, that the ſaid *Chriſtopher Kenne* and *Elizabeth Stowell* were both above the Age of Conſent to Marriage, in *Anno* 37. *H.* 8. and were then lawfully Married and Cohabited together Nine or Ten Years, and the ſaid *Martha* was lawfully Procreate between them before the pretended Divorce was made. Was there ever Probation more Relevant tender'd? was there ever better Reaſon alledged by a poor Lady to defend her Inheritance? On this, *Hoskins*, *Bacon*, *Dodridge*, and other Council Argued ſo long from *Term* to *Term*, as was enough to ſpend a good Portion before it was got. But, alas, to no purpoſe; for had this *Elizabeth*, been Queen *Elizabeth* her ſelf, theſe Judges will give no Relief or Hearing againſt a Biſhops Sentence, unleſs his Lordſhip will pleaſe to Revoke it himſelf. And notwithſtanding all Arguments to the contrary, it was accordingly reſolved by all the Juſtices and Barons, That ſhe muſt go without her Inheritance, and her Mother *Martha* remain a Baſtard, till the Biſhop who made her ſo, ſhould again unmake her, which was in plain *Engliſh*, to adjudg there ſhould be no Appeal in any caſe of *Marriage*, *Filiation*, *Aliment*, or *Succeſſion* from the Biſhops to the Kings Courts.

2. He reſts not there, but ſays, *Iiſdem licentiam ad alia vota convolanda concedimus.* So that here not only Licence may be had for Money to Marry, but for the ſame to leave the old, and make a new choice as often as they pleaſe. And my Lord *Coke* will have the Common Law to give ſuch Faith, that they ought not to queſtion theſe doings, true or falſe, right or wrong; which ſets all Women and Men to Sale for Money, and gave the occaſion to *Cornelius Agrippa*, to call all Eccleſiaſticks *Panders General* for their Profit.

3. The Common Law Judges give the Biſhop the ſame Supremacy of Power in Matrimonial Cauſes, ſince the Proteſtant Religion hath made Marriage no Sacrament, as they had in the time of higheſt Popery, and made it a Sacrament, though *Sublata cauſa tollitur effectus.* The ſame ceaſing to be a Sacrament, and becoming a mear Temporal Contract, the old ſuperſtitious Faith of a Sacrament ought not to be given thoſe who are no Judges of Temporal matters.

4. It

4. It is worth a ſmile in this Caſe, were it not ſo wicked, to ſee how hot the Common Lawyers were a while in the ſcuffle for Supremacy of Marriage. But no ſooner had the Biſhops türn'd the muzzles of the *Romiſh* Canons againſt them, and diſcharged their piece of Conjuring in a ſtrange Language, inſtead of a Sentence, but our Worthies of the Law fell flat on their faces, and yielded the Royal Fort of the Prerogative and all the Proteſtant Subjects Laws and Liberties, yea *Magna Charta* it ſelf, to the Mercy of the Enemy, by ſo abominable a Judgment, that no Appeal lay to the Kings Courts againſt the Sentence of a Biſhop, touching *Marriage*, *Filiation*, or *Succeſſion*, true or falſe, right or wrong, with cauſe or without cauſe, a Reſolve deſerving to be mark'd with a Note of perpetual Infamy, and Razed out of all Records. On which and other Reaſons, though in moſt parts of Chriſtendom the Clergy generally compoſed one Eſtate of the Country, yet ſince the Reformation they were excluded from being any part of the Eſtates, and of *Holland*, neither were they allowed any Vote in their Aſſembly: and far leſs Reaſon have they in *England* (ſeeing they have equal Privilege here with the Gentry, and all other Lay-free-holders in Election of Knights of the Shire) to aſſume any other Power in the Legiſlative, Temporal or Spiritual, either in Perſon or by any other Repreſentative. The like Practice is likewiſe in *Venice*, though they are Catholicks, where before the Council ſits, the Cryer with a loud Voice commands all Prieſts out of Doors, leſt they ſhould diſcover the State ſecrets to the Pope, and likewiſe aſſume the Supremacy of Judgment from the Temporalty to the Spiritualty; to produce which effects, they are a dangerous ingredient to be mixt, in how ſmall a quantity ſoever, in any Supream Council, and a little Leven of ſo active a Fermentation, Leveneth the whole Lump. A Reaſon is given by *Æneas Silvius*, why it was held by more, That the Pope was above a Council, than a Council above a Pope, becauſe Popes gave Biſhopricks and Arch-Biſhopricks, but Councils gave none. Which doth not only hold in meer Spiritual Councils, but in ſuch Spiritual Councils as are mixt with the Temporalty, in which the Spiritualty are always Bribed and Penſion'd by the gift of their Offices: And this is apparent, and needs no further proof. And if any of the Temporalty receive the like Bribes and Penſions, upon lawful proof thereof made, it cannot be denied, that neither of them are equal or fit Legiſlators, and much leſs Judges of the Holy Laws of God, of *Marriage*, *Filiation*, and *Succeſſion* of Subjects, and leaſt of all of Kings.

Exceptions againſt Biſhops being Judges, in reference to the Judicial Power.

1. *They are prohibited by the example of Chriſt to Judg* Marriage, Filiation, Aliment, *or* Succeſſion.

We Read, Chriſt was at a Marriage-Feaſt, but it was ſo poor a one, they wanted Wine, and 'tis likely he would have helped them to none, had the man been rich; for he might have bought enough for his Money without Miracle. But Chriſt ſhewed his Bounty to the Poor, and the Rich he ſent empty away. We read likewiſe, he taught the Doctrine of Marriage: but it was according to the Moral Law of God, and all Ceremonial Laws he Eſtabliſhed; neither did he or his Apoſtles ever join any hands by the Ceremonies of a Prieſt or Temple, nor ever ſpake of any other joining Man and Woman together; but by God only, as it was from the beginning. And as to the point of being a Judg of *Marriage*, *Filiation*, *Aliment*, and *Succeſſion*, he utterly refuſed it, though he knew the Fact and the Right far above any Biſhop, as appears, *Luke* 12. 14. *And one of the company ſaid unto him, Maſter, Speak to my Brother, that he divide the Inheritance with me. And he ſaid unto him, Man, Who made me a Judg or a Divider over you?* To give Judgment in this Caſe, according to Epiſcopal Doctrine, Chriſt muſt firſt have enquired with what Ceremonies the Father and Mother were Married, whereby the Marriage muſt have been firſt Judged. Then, Whether theſe two Brothers were begot before the Ceremonies, or after, and whether there were Witneſſes at the begetting, which concerns *Filiation*. Then, Whether the Inheritance, which, according to the *Romiſh* Law, then Imperial in *Judea*, included both Lands and moveable Goods, were left by a Teſtate, or an Inteſtate; which would have concerned the *Aliment* and *Succeſſion*, but Chriſt in a word refuſed to Judg any of theſe. And thoſe who alledg themſelves his Succeſſors, ought to follow his Example, who if he ſent them, ſent them to teach, and not to Judg. For he ſaith, *Go teach all Nations*; but there is not a word of Judging any Nation.

2. *They are totally ignorant in the Fact, and were never Educated in the Laws by which they pretend to Judg Marriage.*

That 'tis impoſſible for them to know the Facts of *Marriage* or *Filiation*, or to receive any Teſtimony of the ſame, is already ſhewn and proved, *P.* 104, 105. and indeed the Cook with his white Sleeves who dreſs'd the Wedding-Dinner, and the Tailor who made the Wedding-Cloaths, and the Midwife and Goſſips who eat the Pie, and drunk the Bowl, (if any Certificate or Judgment were at all neceſſary as to the Fact

Fact of *Marriage* and *Filiation*, beſides that of the Parents) were far more credible and fit, than the Biſhop's who was an Hundred Miles off at the time of getting the Child, and of all theſe doings beſides.

And as to the Law, 'tis known they were never Educated either in the Civil, Canon, Common or Statute Laws; the knowledg of all which they themſelves cannot but acknowledg are neceſſary to make up an Eccleſiaſtical Lawyer: by which is manifeſt, they are as ignorant of the Law of *Marriage* and *Filiation*, as they are before proved to be of the Fact. With what Face or Conſcience can they undertake to be Judges of what they are totally Ignorant, except only to take account of the Money and Gaines?

3. *They Judg by a Chancellour and Commiſſaries, and not in Perſon.*

The Cauſes are, Firſt, *Ignorance*, whereof they are before proved Guilty. The Second, *Pride*, that they may be equal to Kings who Judg by a Chancellor and other Judges Delegate: for none but a Supream Judg or Legiſlative Power can delegate Judgment. A Biſhop muſt therefore be a Judg Supream, or Delegate; if he Arrogate to be Supream, he ought not to be ſuffer'd; if a Delegate, *Delegatus non poteſt Delegare*. The Third, is *Sloth*, to take the Gains and not the Pains of doing Juſtice. The Fourth, is *Covetouſnes*, that they may have Plurality of Offices, and let them to Farm to Deputies; all which are moſt ſad Ingredients to compound a Judg of *Marriage*, *Filiation*, and *Succeſſion*: and it is clean contrary to the known Laws, for any Judg Delegate to Act by Deputy, and not in Perſon; for the Office of a Judg, is an Office of Truſt, and cannot be granted over; and neither ought nor can be executed by any Aſſign, Deputy, Commiſſaries, or Chancellour, but ought to be ſerved in Perſon; beſides, they Excommunicate by Lay-deputies, contrary to their own Pretences, that the Power of the Keys belongs only to Perſons in pretended Holy Orders.

4. *They have Pluralities of Offices, and more than they are able to ſerve; yet will be Judges beſides.*

One good thing is remembred of *Becket* Arch-Biſhop of *Canterbury*, who though he was a Traitor to King *Henry* the Second, yet being firſt by him made Chancellor of *England*, and after made Arch-Biſhop of *Canterbury*, before he wou'd take upon him the Office of Arch-Biſhop, he, of his own accord, firſt ſurrendred his Office of Chancellor, not thinking it fit for one man to have two ſuch great Offices at once; but they now make St. *Peters* Net of ſo ſmall a Maſh; that great or ſmall, all is Fiſh that comes to it. And firſt they begin with the Coronation Office, already mention'd; then the Offices of Legiſlation in Parliaments; of Legiſlation in Aſſemblies; of Legiſlation in Synods; of Chancellors of State; of Negotiators, of Intelligencers; of Soldiers; of Treaſurers; of Almoners; of Temporal Barons; of Maſters of the Ceremonies;

nies; of Worship, of Visitors, of Inquisitors, of Confessors, of Penancers, of Excommunicators, of Pardoners, of Absolvers, of Dispencers of Faculties, of Interdictors of Marriages, of Licencers of Marriage, of Interdictors of the Press, of Licencers of the Press, of makers of Ministers, of Licencers of Preachers, Curates, Lecturers, Schoolmasters, Physicians, of Consecrators of Churches, of Consecrators of Church-yards, of Interdictors of Burial, of Interdictors to cast out the Devil by Fasting and Prayers, of Licencers to cast out the Devil, and many others; out of each of which they reap gains, yet are not able to serve the least part of them (but let them to Farm to their Spunges, whom they squeeze into their own See) whereas they cannot so much as pretend any Mission from Christ for more than One Office, which is of Teaching *in Season, and out of Season*; and would they follow that as they ought, the same would be sufficient to take up the whole man, and leave them little leisure of being Judges of *Marriage, Filiation*, and *Succession*, or to execute any other Temporal Office.

5. *They are Ambidexter and Amphibious Judges in Spirituals and Temporals.*

They cannot deny, that *Marriage*, since it was purified by the Protestant Religion from the defilement of being a *Romish* Sacrament, and *Filiation*, *Aliment*, and *Succession* incident to the same, became meer Temporal matters, and nothing can be more Temporal in it self, or wherein the higest Temporal Rights of Princes and People, of Liberty, of Person and Propriety of Goods, Freehold and Inheritance, are more concerned, than in them: and it being likewise confess'd both by Common and Ecclesiastical Lawyers, That the meer Spiritual Judge ought not to judg of Temporal matters; neither was there any such Jurisdiction ever pretended to Marriage by the Pope himself; but as to a Spiritual Sacrament, and *in Ordine ad Spiritualia*, he by it deposed Kings, and disposed of the Succession of Kingdoms at his Will and Pleasure. Unless therefore a Bishop will affirm, That Marriage continues still a *Romish* Sacrament, or that he may, like the Pope, judg of any Temporal matters *in Ordine ad Spiritualia*, he hath no pretence or colour of Right to be a Judg of *Marriage, Filiation, Aliment*, or *Succession*; but let the Right be what it will, *de Facto*, he hath got a Spiritual Lord and a Temporal Baron into one Doublet, and produced from thence a monstrous Ambidextrous Jurisdiction with the Spiritual Sword in one hand, and the Temporal in the other, neither Divine nor Humane, nor Fish nor Flesh, but like the Amphibious Crocodile, partly with Tears, partly with Terror, Raving both by Land and Water, and Destroying in both the Elements of Spirituals and Temporals.

6. *They Judg Marriage by pretended Canons and Laws made by Bishops and Synods; which are no Laws but are utterly void; they not having had in their making the Assent of the Parliament.*

No

No *Engliſh-man* can deny, That to make a Law, are required the joint Aſſent both of King and Parliament; and if either is wanting, there can be no Law decreed and enacted by any other Convention Eccleſiaſtical or Lay, whether Council or Synod: And this is ſo great a Birth-right of the People; That if any Houſe of Commons, who are Elected by the People, and intruſted by them to be their Delegates to treat with his Majeſty or his Succeſſors, to enact Laws of *Marriage*, and other Laws concerning the ſame, ſhould conſent and agree, That an Act of Parliament ſhould be made, that the Biſhops and a Synod ſhould, inſtead of the Houſe of Commons, have full Power and Authority, on their Convention by the Kings Writ, to treat with the King, and by his Royal Aſſent to make and enact Canons and Laws concerning *Marriage*, *Filiation*, *Succeſſion*, Religion, Liberty and Propriety of the People; and ſuch Canons and Laws ſo made, ſhould have the force of Acts of Parliaments, and the Commons ſhould declare, That to eaſe themſelves of the trouble of ſo often being ſummon'd from their remote Habitations in the Country, and ſo long Journies to the City, and their not being verſt in the difficulties of Legiſlation, or any other probable matter of Excuſe, that they deſired to refer the whole care of the Publick Affairs to Biſhops and Synods, who are Learned men, and they ſhould from time to time, as often as they ſaw neceſſary on Summons, make wholeſom Canons and Laws for the People; and that the Houſe of Commons deſired to be excuſed from the burden of ſitting any more, and accordingly ſuch an Act ſhould be paſſed, and thereon a Synod be Summon'd, and they ſhould make a Book of Canons concerning *Marriage*, *Filiation*, and *Succeſſion*, by the Royal Conſent, and theſe ſhould be proclaimed to be Laws, and to have the force of Acts of Parliament; yet would ſuch Book of Canons be utterly void and of none effect, becauſe in their making there was no Conſent of an Houſe of Commons; and the Houſe of Commons being but Delegates themſelves, can not Delegate the Peoples Intereſt in the Legiſlative to others; for, *Delegatus non poteſt delegare*, it was an Office of Perſonal Truſt repoſed in the Perſons Elected to be Members of Parliament, to treat with the King, and aſſent to equal Laws in behalf of the People, they could not grant over therefore this Office of Truſt to Biſhops, or a Synod, or a Council, to treat with the King, and aſſent to Laws for the People; but every Member of Parliament ought either to refuſe to accept of the Election; or if he accept, to ſerve in Perſon, and not by Proxy aſſign or ſubdelegate in ſo great a Truſt, as to join in making Laws for the Publick Safety and Peace.

All Books of Canons made by Biſhops without conſent of Parliament, void.

Hence will follow therefore, That all Eccleſiaſtical Canons and Laws of Synods and Councils, prohibiting Marriage, without Publick Bans or Epiſcopal Licences, and all Canons prohibiting Marriage in time of *Advent*, *Septuageſima*, and *Rogation*, and all Canons prohibiting Marriage within

within degrees of Conſanguinity and Affinity, not prohibited by the Moral Law of God; and all Canons prohibiting Marriage not made by the Ceremonies of a Prieſt and Temple; and all Canons of the *Council* of *Trent* making null and void all Marriages not made before a Prieſt and two Witneſſes, are all in themſelves utterly void; for the Houſe of Commons never aſſented to their making; and all Laws prohibitory of Marriage, being before ſhewn to be contrary to the Moral Law of God, and to come from the Devil, *P.* 52. and it being here ſhewn that they have no conſent of Parliament; ſuch Books of Canons muſt in both reſpects be of neceſſity null and void, as being neither the Laws of God nor Man in *England*, but of the Devil; according to which Books of Canons, Biſhops therefore Judging of Marriage contrary to the Moral Law of God, and without any poſitive Law of Man, their Judgment muſt likewiſe be void, being according to the Law of the Devil; and ſuch Perſons are no fit Judges, who judg according to ſuch Laws.

7. *They take to themſelves the Fines and Penalties of their own Judgments.*

That the Sole and Final Cauſe why Biſhops ſo eagerly conteſt for the Juriſdiction of Marriage, is *Filthy Lucre*, is ſhewn before, *P.* 52, 53. &c. and the ſame is ſo great a Pillar of the Kingdom of Anti-Chriſt, that, take but away Epiſcopal Juriſdiction of Marriage, the Papal Power is immediately ruin'd in thoſe Provinces whereſoever it is done. (1.) In regard of the infinite Treaſure he heaps hereby, which appears before, *P.* 52, 53. (2.) In regard of the Power he gains hereby over Kings and Princes, in aſſuming to himſelf the Judgment of *Filiations* and *Succeſſions* to Kingdoms. (3.) By enticing Princes to unlawful Marriages, contrary to the Moral Law of God, and procuring them to take his Diſpenſations; for thereby ſuch Prince and his Succeſſors will be in great danger as to his Title, unleſs he expoſe his Intereſt and Religion to obtain aſſiſtance from the See of *Rome:* which made *Philip* the Second, King of *Spain*, who Married Queen *Mary*, ſo furious to ſupport the Catholick Religion in the Low Countreys by Fire and Sword, and to make a Law, That none ſhould ſucceed him in the Government of thoſe Provinces, unleſs he took an Oath to maintain the Catholick Religion there, and maintain the Authority of the Church of *Rome*. And this made Queen *Mary* ſo cruelly furious againſt Proteſtants in *England*, the Title of her Mothers Marriage, and her Succeſſion, depending on the Popes protection. And whereſoever any Prince is promoted by the Popes Canon Laws, contrary to the Right of Succeſſion inſtituted by the Moral Law of God, ſuch Prince, to defend his Title againſt the right Heir by the Moral Law of God, and his Succeſſors, become aſſured Vaſſals to the Religion and See of *Rome*. (4.) The Pope by procuring

Pope ruin'd where Epiſcopal Juriſdiction of Marriage is taken away.

and

and diſpenſing Marriages of Catholick Ladies with Proteſtant Princes, gains a numerous increaſe of Catholicks in thoſe Dominions, and many times turns the whole Tide to carry Tribute to *Tyber*. But to return to the leſſer Rivers, the Biſhops; 'tis no ſmall ſtream of gain flows in to them too by ſuch an unjuſt Power of Bribing themſelves to Injuſtice, by exerciſing ſo Arbitrary a Proceeding, as to Fine and Commute what they pleaſe, and putting it in their own Purſes, which ſhould go to the Publick Treaſury.

8. *They Licenſe, Diſpenſe and Pardon all Offences againſt the Law, for Money.*

It is to no purpoſe to make Penal Laws, if the Judg hath liberty to Licenſe, Diſpenſe and Pardon Offences againſt them; and nothing better enables him to do it, than to allow a Judg to Fine or Commute, and to put the Fine or Commutation Money in his own Purſe; now the Power of Licenſing, Diſpenſing and Pardoning Offences againſt the Laws of Marriage, or any other Law, muſt of neceſſity ſo corrupt the Judg, as he will protect and increaſe the Vice he pretends to ſuppreſs. Hence the Popes *Taxa Cameræ*, and the Biſhops Courts, increaſe more Fornication and Adultery, than all the looſe Women in the Countrey. They are therefore no fit Judges of Marriage.

9. *They cannot be known whether they are Proteſtants or Papiſts, if Biſhops.*

The Laws of Marriage have a very great influence on all Religions, and in all Nations, but more eſpecially God hath been pleaſed in *England* to make the ſame the chief means and occaſion in the time of *H.* 8. of planting the Proteſtant; it is therefore of very great conce n for the Preſervation of the ſame, that the Judges of Marriage be Proteſtants; and it cannot be known whether they are ſo or no, if Biſhops. (1.) Becauſe the exceſs of Riches, which the Juriſdiction of *Marriage, Filiation*, and *Succeſſion*, eſpecially to Kingdoms, carries with it; and all other Profits of a Biſhoprick joined therewith, are ſo great, as may be too much a Temptation to any, unleſs a Saint by Miracle, to be of any Religion to obtain them; and Chriſt himſelf, *Matth.* 19 24. makes this Temptation ſo difficult to be reſiſted, that he ſaith, *It is eaſier for a Camel to go through the Eye of a Needle, than for a rich man to enter into the Kingdom of Heaven*; yea he makes a Miracle neceſſary, for any to obtain Riches and Heaven together; for he ſaith, *Verſe* 26. *With men this is impoſſible, but with God all things are poſſible.* And *Auſtin*, in imitation of this confeſſeth in effect the ſame, *difficile, imò impoſſibile eſt præſentibus & futuris bonis frui.* It is difficult, yea impoſſible, to enjoy the good things of this World, and of that to come. *Damaſus* Biſhop of *Rome*, endeavour'd to convert *Prætextatus*, a great Heathen Philoſopher, to *Chriſtianity*; he anſwer'd him, *Make me Biſhop of* Rome, *and I will*

turn Chriſtian. And there are too many who ſay, make me a Biſhop and I will be a Proteſtant. So did the Biſhop of *Spalato*, in late memory, leave *Italy*, while *Paul* the Fifth was Pope, becauſe his Ambition was not ſo high prefer'd as he deſired, and fled to *England*, and profeſs'd himſelf a Proteſtant, and Preached againſt the Pope; but when the old Pope was dead, and his Kinſman got into the Chair, being not made a Biſhop here, he return'd back again to *Rome*, and turn'd Catholick again in hope of great preferment there from his Kinſman: but in ſtead of the ſame, they took him and burnt him for an Apoſtate. There want not likewiſe in the preſent time, Examples of thoſe who profeſs'd themſelves Proteſtants, till not finding there Ambitious expectations ſatisfied with Biſhopricks and other great places, have turned Papiſts, in hope to find the ſame amongſt Them. (2.) If Fame err not, too many have been promoted to their Biſhopricks by the Moyne and Recommendations of Great Catholicks, whoſe Creatures they were; and how unfit Judges of *Marriage*, *Filiation*, and *Succeſſion* to Proteſtant Kingdoms, ſuch Biſhops muſt be, is left to all true Proteſtants to conſider.

10. *They Judg by Fictions, and not by Truth.*

Grant a Judg but liberty to judg by Fictions, he will make what Religion, what Law, what Equity, what Juſtice he pleaſeth; he will be the only God to be adored, and Judg to be feared. He will be like the Pope, the only Proprietor of the World, and juſtifie his Title to the Sale of Heaven, Earth, and Hell. The Fictions by which Biſhops judg Marriage, and the miſchiefs which inſue by them, have been moſt touch'd before: As, that Intention of minds, and not conjunction of Bodies, makes Marriage, *P.* 83. (2.) That *Sponſa* before a Prieſt in a Temple, is *Uxor. ib. &* 86. (3.) That *Verba de Præſenti*, are *Facta de Præterito & Futuro. P.* 84. (4.) That Children begot by Adulterers, were begot by the Husband, if he was within the Four Seas. *P.* 72, 73. (5.) That two Perſons are Tranſubſtantiated into one, by the words of the Prieſt pronouncing them Man and Wife. *P.* 66, 67. *&c.* That a Child is not Sib or Kin, or of Conſanguinity, nor a Child to the Father who begot him, or the Mother who bare him. *P.* 14, 15. (6.) There is another Fiction by which they judg, not mention'd before, which is Benediction of the Prieſt, for it was an old Superſtition nurſed in the People by the old *Pagan* Prieſts, That their Wives ſhould be Barren, unleſs they were bleſs'd by the Prieſt. Hence the old *Arabians* were wont to Swear by God and the Bellies of their Wives; and *Mahomet* himſelf, *Alchor. Cap.* 4. *P.*47. teacheth the ſame as a moſt Sacred Oath; and Sterility, the greateſt Curſe to be feared. And though *Jacob* teach, That the bleſſing of Children ought only to be asked and expected from God, and not from Man; and certainly it were in truth the greateſt Idolatry to deſire or expect that Bleſſing from the Prieſt, and were to make

make him God, as appears, *Gen.* 30. 1. *And when* Rachel *ſaw ſhe bare* Jacob *no Children,* Rachel *envied her Siſter, and ſaid unto* Jacob, *give me Children, or elſe I die. And* Jacob's *anger was kindled againſt* Rachel, *and ſaid, Am I in Gods ſtead? who hath withheld from thee the fruit of the Womb?* But to infuſe the like Superſtition into the Hearts of Chriſtians, for the increaſe of his gain, *Soter* Pope of *Rome*, decreed, No Marriage ſhould be lawful, without the Parties receiving the Benediction of the Prieſt. *Plat. Func.* And by a Decree in *France*, all Children born in Marriages, not bleſſed by a *Romiſh* Prieſt, are made incapable to ſucceed to any Goods of Father and Mother. *Everard.* 24. The multitude of Pilgrimages to Saints and Idols, that is to ſay, to the Prieſts who keep them, and take the gifts of all they can delude, to ask of them the Benediction of Children, are known, Mr. *Stopford*, *Paganopap.* 111. of this Superſtition or Idolatry mentions a noted Example. Benediction of the Prieſt on Marriage a Fiction.

Henry the Third King of *France*, ſent a Princely Gift to the Virgin of *Loretto*, *viz.* a worthy Cup, to obtain Iſſue Male by her Interceſſion; a Gift, for ſubſtance and work, moſt excellent; for the Cup it ſelf is of hollowed Gem, at this day called the *Azure Stone:* 'Tis alſo very big, and intermingled with Golden Veins, the Cover whereof is of turned Cryſtal ſet in Gold, and adorned with many excellent Jewels; in the top of the Cover an Angel of Gold doth hold in his hand a Lilly of Diamonds, the Arms of the Kingdom of *France*; which Lilly doth conſiſt of three Diamonds joined together in Gold with admirable Art, the Foot of the Cup being Emerald, is bound about and ſupported with Gold, and beautified with Pretious Stones and rich Orient Pearls; in the bottom of the Foot, the Giver, and the Cauſe of the Gift, is engraven in manner following:

O Queen, who by thy worthy Son
Didſt joyful Bleſſing bring
To all the World; Bleſs with a Son
The Kingdom and the King.

Henry III. King of *France* and *Polonia*,
in the Year of our Salvation,
MDLXXXIV.

St. *Germyn*, *lib.* 2. 69. raiſes a Queſtion, Whether if the true Heir is certified by the Biſhop a Baſtard, as Ten to One if there happen a Conteſt between two Heirs, but he is; whether he that is of Council with the Adverſe Party, may, with good Conſcience adviſe his Client to make Uſe of this falſe Certificate of the Biſhop, in which, without any Conſcience (which he ſo much pretends) he ſaith he may; for Certificate of a Biſhop falſe.

theſe Reaſons, Firſt, becauſe it is a Maxime in the Law, That a private miſchief ſhall be ſuffer'd before a publick Inconvenience; and the publick inconvenience would be, that if the Certificate of the Biſhop ſhould not be final, then in this Caſe if another Writ ſhould be after ſent to another Biſhop in another Action, to certifie whether he were a Baſtard or not, peradventure that Biſhop would certifie that he were a *Mulier*; that is to ſay, lawfully begot; and then he ſhould recover as Heir, and ſo he ſhould in one ſelf-Court be taken for *Mulier* and Baſtard; for avoiding which contrariety, the Law will ſuffer no more Writs to go forth in that Caſe, and ſuffers all men to take advantage of the Certificate, rather than ſuffer ſuch a Contradiction, which in Law is called an Inconvenience. The Second Reaſon he gives, is, becauſe the Certificate of the Biſhop is the higeſt kind of Trial that is in the Law in this behalf.

But with due reſpect to ſo grave an Author, whoſe failings are rather to be imputed to the time of Popery wherein he was born, and writ, than to his Perſon. In anſwer to his Reaſons alledged, I ſay, firſt, to the Maxim, That 'tis better to ſuffer a private miſchief, than a publick Inconvenience, or, which is much like it, is better one man periſh than the whole People, is to be intended only where the Caſe is reduced to that neceſſity, that either one or other muſt be; but in this there is no neceſſity Trial ſhould be by Certificate of a Biſhop at all; and though *uno abſurdo dato mille ſequuntur*, were there a Thouſand inconveniences followed, if the Certificate of a Biſhop ſhould be queſtion'd for falſity, it being firſt granted, it belongs to him to make Certificates; yet there is no neceſſity that abſurdity ſhould be firſt granted, that it ſhould belong to him to make Certificates. for there are ways enough (wherein no Inconveniences follow) of Trial of Truth, without Certificates of Biſhops. (2.) The ſuppoſition is repugnant and impoſſible, that any Caſe ſhould happen or be ſhewn in the World, wherein Fiction or Falſity ought to be ſuffer'd in Judicial proceeding; or where Probation ought not by the Law of God to be admitted againſt ſuch Fiction and Falſity, (notwithſtanding the corrupt practice of Courts to the contrary) and ſuch ſuffering of a private miſchief of that kind to a private Perſon, is ſo far from preventing a publick Inconvenience, that it will bring both a private and publick miſchief, and deſtroy both; for it is as impoſſible to ſeparate Truth from Juſtice, as the Light from the Sun. (3.) That which is alledged for an inconvenience to the publick, That one Biſhop would make a Certificate contrary to another, this is no more publick inconvenience, than if Thieves ſhould fall out, and true men come by their Goods. (4.) As to what is ſaid, That the Certificate of the Biſhop is in this Caſe the higheſt Trial in the Law, we muſt diſtinguiſh the Law; for it was then the Law of Popery was Predominant, which

which gave Supremacy in Cauſes of *Marriage*, *Filiation*, and *Succeſſion*, to the Biſhops above Kings, and to the Sentences in Biſhops Courts, and made them above Appeal to the Kings Courts, and the Foundation of that their Supremacy was, That then by that Law Marriage was a Sacrament, and Penance was a Sacrament; but the Law being now changed from Popiſh to Proteſtant, and the Supremacy being now given by the Proteſtant Law to the King, above the Biſhop, as well in Cauſes Matrimonial, as in all other Eccleſiaſtical Cauſes, and the Proteſtant Religion, taking away the two Popiſh Sacraments of *Marriage* and *Penance*, which were the only Roots whence the Epiſcopal Juriſdiction of Marriage, and the incidents to the ſame pretended to ſprout, *Ceſſante Cauſa, & ratione legis ceſſat & Lex*, the pretended Cauſes of the Juriſdiction ceaſing, the Juriſdiction it ſelf ceaſes, whereby now the Certificate of the Biſhop is ſo far from being the higheſt Trial, that it ought to be no Trial at all; for the Sacraments ceaſing, the Juriſdiction ceaſeth; and the Juriſdiction ceaſing, the Power of Trial ought likewiſe to ceaſe. (5.) For Councel to adviſe his Client to maintain a falſe Certificate of the Biſhops, knowing it to be falſe, is as wicked, as for the Biſhop to make a falſe Certificate, knowing it to be falſe; or which is impoſſible for him to know to be true, as all relating to *Filiation* are, it being their own Rule, *Filiatio non poteſt probari*, except by the Parents; wherefore, *ex Ore Suo*, they condemn themſelves of falſe Judgment, and are not therefore fit to be Judges.

11. *They Judg by Ceremonies, and not by Circumſtances.*

As to the word, *Ceremonia*, ſome will have it derived *à Cerere*, becauſe they uſed divers Formalities in the Worſhip of the Goddeſs *Ceres*: But this is not proper, ſeeing all the Heathen Gods and Goddeſſes had as many Formalities in their Worſhip as ſhe; others derive it from *Cerete*, a *Latine* Town, whither (as ſaith *Valerius Maximus*) the *Flamen Quirinalis* and the *Veſtal* Virgins fled with their Trinkets, while the *Gauls* beſieged *Rome*, others derive it *à Cereis*, from Torches and Tapers lighted made of Wax, which amongſt the old *Pagans* was a great Ceremony uſed in the Temples of their Gods, and at their Marriages; but this is likewiſe improper and only figurative, to take *ſpecies famoſior pro toto genere*, and not natural; ſo it appears, the Etymology of it is either unknown, or it is it ſelf an Original, not derived from any.

Rites, which is a word uſually joined with Ceremonies, and much of the ſame Signification, ſome will have derived *à Ritualibus*; now the *Rituales* were old Magical and Superſtitious Books of the *Hetruſcan* Prieſts, by help of which, they either conjur'd their Gods, or made the People believe ſo; and they had all the Formalities written in them which were to be uſed at making Marriages, at laying the Foundations of a City, and how Altars, Temples, and Houſes were to be Conſecrated,

crated, and how their Courts of Juſtice, and Counties, and Hundreds, were to be divided; for in all theſe the old *Pagans* uſed to Conſult their *Augurs*, *Aruſpices*, Biſhops and Prieſts, and were like our Books of Eccleſiaſtical Canons: But it ſeems rather theſe ritual Books had their names derived from the Rites, whereof they were made a written Collection, and not the Rites from the *Rituals*; and ſo Rites, as well as Ceremonies, may be words which none knows whence they came, or whether they will.

But to come from the Etymology of the word *Ceremony*, to the thing uſually ſignified by it, and the difference between a Ceremony and a Circumſtance; it ſeems, A Ceremony is an Act acceſſary joined to a Principal, not affecting the Principal Act with Good or Evil by the Law of God.

A Circumſtance, is an Act acceſſary joined with a Principal, affecting the ſame Principal Act with Good or Evil by the Law of God.

Ceremonies are infinite, but Circumſtances are uſually drawn to Seven Heads.

(1.) The Cauſe of doing the Act; which is divided into four kinds, The Efficient, Final, Material, Formal; and theſe again ſubdivided into others.

(2.) The Perſon by, or with whom the Act was done.

(3.) The Place where it was done.

(4.) The Time when it was done.

(5.) The Quantity continued, or diſcrete.

(6.) The Quality, which is manifold.

(7.) The Seventh and laſt Circumſtance, is the Event of the Act; the *Civilians* expound very improperly, and inſtance, whether the Act is done by Fear, Force, Error, Deceit, Fault, Chance, or the like; for how can theſe which are precedent Cauſes of the Act, and therefore ought to be refer'd to the Cirſtumſtance of the Cauſes, be ſaid to be the Event of an Act, which is always ſubſequent, and not precedent to the Principal Act, and in that ſenſe is always uſed by the beſt Latiniſts, as *Cicero* in *Rhetor.* Things are often judged from the Event; than which there is nothing more unjuſt: and the Poets agree in the ſame,

——*Careat Succeſſibus opto,*
Quiſquis ab Eventu facta notanda putat.

Eventus Belli incertus, wherein it is uſed for the Fortune and Succeſs following the Battel, and not the Fortune or Chance which began or occaſion'd it. So the Common Law in puniſhing the Event, as the death of any Man within a Day or Year after his being wounded or beaten, puniſheth only the Event of an unlawful Act of wounding or beating, not

not of lawful; which Event is ſubſequent, and not preceding to the Act. So likewiſe the Scripture uſeth the word *Event*, for what follows, and not for what precedes, as *Eccleſ.* 2. 14. *One Event happeneth to them all.* And *Eccleſ.* 9. 2. *There is one Event to the Righteous and to the Wicked.* And *Verſe* 11. *I returned and ſaw under the Sun, that the Race is not to the Swift, nor the Battel to the Strong, neither yet Bread to the Wiſe, nor Riches to men of Underſtanding, nor yet Favour to men of Skill; but Time and Chance happeneth to them all.* Man purpoſeth, but God diſpoſeth. Events are only in the Power of God.

Ceremonies and Circumſtances in this agree.

(1.) That they are both acceſſary, and not the Principal Acts.

(2.) That when ſingle, they may be neither good nor evil; but when join'd with another Act, they may become either good or evil.

(3.) They may be in ſome junctures each the Principal, and in other, the acceſſary Act.

(4.) In ſome junctures each may be good, in other evil, and in a third neither good nor evil; that is, neither be Ceremonies, nor Circumſtances.

(5.) In this Ceremonies and Circumſtances agree, that they have been uſed and abuſed in all Affairs and Acts, both Civil, Military, and Religious; but I ſhall here only inſiſt on ſuch Ceremonies as have been abuſed and compel'd by *Pagan* and Epiſcopal Canons in relation to Marriage.

Ceremonies and Circumſtances in this differ.

(1.) Ceremonies and Circumſtances differ, That Marriage and other Acts, are impoſſible to be done without Circumſtances, but the ſame is poſſible to be done without Ceremonies.

(2.) Ceremonies are always Acts external, and made the objects of the external Senſes of Witneſſes, and are of no Uſe in Marriage (but the gains of the Prieſt) where Witneſſes are unlawful, as in Carnal knowledg; or impoſſible, as in *Filiation*, as is already proved, *P.* 104, 105. But Circumſtances of Marriage may be both external, or internal and inviſible. External, as Youth, Age, Sexes, Health, Sickneſs, Plurality, Unity. Internal and Inviſible, as Religion, Conſcience, Vertue, Vice, Love, Hatred, and the like. Ceremonies make Acts gawdy, which they call decent, or deformed before men; but Circumſtances only make them ſo before God.

(3.) All Ceremonials are Artificial, and not Natural; but Circumſtances may be both Artificial and Natural.

(4.) No

(4.) No Ceremonies in Marriage are Commanded or Prohibited in the Moral Law of God; but many Circumſtances are Commanded, and many Prohibited in the ſame Moral Law.

(5.) God is the Author of all Natural and Moral Circumſtances, which make Marriage lawful or unlawful; but the Devil is the Author of Ceremonies where is no Miracle or ſign of Miſſion from God. And it hath been before ſhewn, the compulſion to Ceremonies of Marriage came from *Dæmons* and Prieſts of *Priapus* and *Venus*; and ſuch as judg Marriage by ſuch Ceremonies come not from God.

(6.) Ceremony, is a matter of Formality in Judgment, but Circumſtance, if any, is the matter of Subſtance. To conclude, it is a thing ſo abſurd to judg by Ceremonies above Circumſtances, and by Formalities above Subſtance, that never any Lawyer was ſo ſhameleſs to maintain in writing, or lay any ſuch Principle in judicial Proceedings to be equal, though by the Corruption of Practice, not only in Marriage, but in all things elſe. The Truth and Subſtance of Religion and Juſtice hath been utterly loſt and deſtroyed in an heap of Ceremonies and Formalities, invented only for the gains of ſuch Judges as would for that end with ſuch Empty-nothings pretend to weigh Right and Wrong. For the Law of man can not make any Ceremony or other matter to be Subſtance, which the Law of God and Nature hath made an Accident; or make that Moral, which God hath made to be only Ceremonial; or make that Act Good or Evil in it ſelf, or to affect another Act with Good or Evil; for to make Moral Good or Evil, or a Law for it, belongs only to Supream Power. *Iſa.* 45 7. *I form the Light, and create Darkneſs; I make Peace, and create Evil.* Otherwiſe he were not Legiſlator of the World.

Of the manifold Miſchiefs which inſue by Compulſion to Marry by the particular Ceremonies of a Prieſt or a Temple.

It is not here affirmed, That 'tis unlawful to Marry by a Prieſt, or in a Temple; but it is only affirmed, That 'tis unlawful to compel any ſo to do, by Penalties; and eſpecially by ſo unjuſt Penalties, as is done by the Popiſh and Epiſcopal Canons of making Marriages Null, or illegitimating the Children; and that 'tis unlawful for Biſhops to judg Marriages Null, or make Certificates of *Ne unques accouple* in Loyal Matrimony concerning the Parents, or of illegitimation of the Child, for no other cauſe than the omiſſion or defect of ſo frivolous a Ceremony as a Prieſt or a Temple; and that ſuch affirmance is not without cauſe, may appear from the manifold miſchiefs which follow Compulſion of the ſame.

(1.) It

(1.) It compels to enter into an indissoluble Obligation, before the Parties can know each other, whether they are fit for Marriage or no.

Proh Deum atq; hominum fidem! qua hæc contumelia est? uxorem decrevit sibi dare mihi hodie; nonne oportet præscisse me ante? nonne Communicatam oportuit Ter. And. 1. *Act. Scen.* 5. Oh the Faith of Gods and Men! what a scorn is this? He hath Decreed to put a Wife upon me to Day; should I not first know her? should I not first talk with her? This Custom of Verbal Precontracts, was in ancient time much used amongst the *Jews*, and Marriage delayed a long time after, as *Jacob's* was with *Rachel*, for Seven Years. But the later Rabbies finding many great inconveniences in the same, injoined, if it were at all, the same should be a very little while before the Marriage. In like manner the *Armenians* who are of the *Greek* Church, Contract and Espouse together their Children at two or three Years old, yea often times the Mothers agree a Marriage between their Children, if one happen to be a Male, and the other a Female, while they are in their Bellies. *Tavernier.* Mischiefs of Verbal Espousals, before Real Knowledg.

This Custom of Precontracts and Espousals, is likewise used, though not between Children so young, as with the *Armenians*, by the Canon Law, and most wickedly allowed to be a sufficient Cause of Nulling a Marriage Consummate by Carnal knowledg and Birth of a Child, and illegitimation of the same Child of an innocent Person altogether ignorant of such Precontracts. *Vid. plus* of Precontract before, *P.* 88, 94, 95, &c. Woman deluded.

1. The inconveniences of Precontracts and Espousals is, that when Contracted, the one, especially the Man, delays and deludes the other so long, that one chief end of Marriage, which is prevention of Fornication, is defeated, and many times Women are kept along with Promises all their life time, and the Man in secret finds other Company, and never takes himself the Woman Contracted at the last, nor will suffer others to take her by pretences of Precontracts, and if he release them at last, others will often refrain those so blown on, supposing them repudiated for some secret fault.

2. By Precontracts published by the Priest *in facie Ecclesiæ*, which they call Marriage, before the real and true Marriage, which is Carnal knowledg, Parties are joined together who are impotent, diseased, unpleasant, or otherwise uncapable of answering the great ends of Marriage, of Procreation of Children, and prevention of Fornication; and then by the Canon Law they are bound to Fast and Pray Three Years together, before by the Spiritual Court they can be untouched again; with such obscene or at least disgraceful Trials and Publications, as the Repudiations of either, is a Dishonour to both; yea many Examples there Impotent diseased Persons Contracted.

have been of modeſt and vertuous Ladies, who expecting to be Mothers by Marriage, have continued Virgins, to their great inward grief all their Husbands life time, rather than they would make any outward complaint as long as they lived; then, though no impotence or unfitneſs in Body, yet in Mind and Affection, which is as bad, the Man is *Frigidus*, and he Woman is *Calida*, as appears in the forementioned Example, eſpecially of *H.* 8. and the Lady *Ann* of *Cleve.*

A young Woman in mans apparel Married to an old, Robs her.

3. In Contracts before Carnal knowledg, Parties cannot know of what Sex each other is, or whether they are both Men or both Women. Concerning which, I have been credibly informed, That a certain old Woman being left very Rich in Money by her Husband which was dead, a young luſty Wench plotting how to get her Money from her, apparel'd her ſelf like a Man and wooed the old Chrone, and eaſily got her good Will to Marry her, and the Marriage was ſolemnly Celebrated by the Prieſt in the Temple, and the Female young Husband brought to Bed to the old Wife, and ſo ordered the buſineſs, that ſhe ſtole her Bags of Money from her, and was therefore Criminally purſued and Executed.

Woman with-Child Contracted, unknown.

4. The Husband often times finds the Woman with-Child beforehand, when 'tis *inſipientis dicere non Putaram*, too late to repent of his Match, and the Prieſt hath fetter'd them together for better for worſe, and no Probation to be admitted to the contrary that 'tis not his Child; of which there are too many Examples not fit to be publickly related. Whereas if no Verbal Contract or Eſpouſal Private in the Houſe, or Publick in the Church, were allowed to be obligatory before the real Contract of Carnal knowledg Conſummate privately between the Parties, no Woman could hope to impoſe ſuch a Deceit, or would dare to expoſe her ſelf to ſuch a Diſhonourable Repudiation at the Will of the Man. The ancient and true Form of Eſpouſal was only on the Mans part to the Woman, *Se poſt concubitum invitam non deſerturum*; and the *Duth-man* is ſtill ſo wary, that he giveth not his Woman her *Morgengabica*, which is a kind of Dower, or *Munus Nuptiale*, until the next morning when he hath had the firſt Nights trial of her, which from the *Dutch* Word, *Morgengab*, is called the *Morning Gift*. *Skene de verb. Sig. tit Dos.* It is likewiſe known, that the *Jew*, if he found not his Woman a Virgin, might Divorce her. So may the *Turk*, the *Perſian*, the *Tartar*, the *Ethiopian*, and all Nations not blinded with Popery, do openly, or put her away ſecretly, as *Joſeph* did.

Notice of the Wedding day proſtitutes the Bride.

5. In Precontracts when the ſame are known, and the Wedding-day agreed and appointed, then the Woman gives away on a ſudden to another what ſhe ſhould have reſerved a Week longer for her Husband. There were certain *Oxford* Scholars, (who might have been better imployed in their Studies) got ſome Market-Maids to the Tavern, where having

having made them merry with Wine, they taught them what belonged to *Venus*, as well as *Bacchus*; and one of the Scholars was ſo good natur'd, as to tell his Miſtreſs he had ſingled, after he had performed his Service to her, *That if ſhe proved to be with-Child, and would ſend him notice, he would take care to provide for it. Oh, Sir*, ſaid ſhe, *never trouble your ſelf for that, for I am appointed to be Married within theſe three days.*

6. This makes Marriage often times turn from Conjugal Love to be only a *Smith-field* Bargain, for a Woman to buy a Stallion, or a Man to hire a Whore. There was a certain Rich Widow who Married a Young Man, having firſt, to ſecure her Money, bound him in great Bonds to her Truſtees, not to meddle with any thing of hers without their Aſſent in writing under their hands: The Marriage being ſolemnized, and both a *deductio in Templum, & in Thalamum* performed, ſhe found notwithſtanding her Bed-fellow to lie more quietly than ſhe would have had him, for divers Nights together; till at laſt being deceived in her expectation, ſhe began to chide him for his ſleepineſs. To whom he replyed, *Do you think I will undo my ſelf, and forfeit my Bonds with medling with what is yours, without Aſſent of your Truſtees in writing under their hands?* Whereupon the Widow aroſe, and fetching the Bonds to him, they were forthwith Cancel'd and caſt into Fire. The like is more often done by the Woman, who, like another *Lais*, will not ſell her ſelf but at an high Rate and dearer to her Husband, by how much the better he loves her; and when ſhe hath him under an indiſſoluble Obligation, then any elſe will give for her. Which was the Reaſon that both Civil and Canon Law made *Donationes inter virum & uxorem* void, *ne nimio amore ſpolientur*, leſt they ſhould rob one another with too much fondneſs; and void they ought ſtill to be, and would be, were not the deceitful ways of Truſtees too much tolerated *in fraudem legis*, to ſet up again the old Mercenary Trade of hiring Whores under the name of Marriage. Makes Marriage, when made, Mercenary.

7. Theſe Inconveniences produced the ſhameleſs Sect of *Adamites*, and the almoſt as bad remedy propoſed by Sir *Thomas More* in his *Utopia*; and what is mention'd by Sir *Francis Bacon* in his new *Atlantis* of *Adam* and *Eves* Pool, where he would have thoſe who intend to Marry, firſt to have a naked interview. And that of *Sforza*, who when he would have Eſpouſed *Dorothy* the Daughter of *Lodowick* Duke of *Mantua*, to his Son, he demanded that certain Phyſicians, whom he ſhould appoint, might firſt ſee his Daughter naked; which Duke *Lodowick* refuſed, as appears, *Tiraeq. lib. 4. de Connub. Contr. Philip. dec. & Francis Aret. Conſil.* 142. who held, That the demand of *Sforza* was juſt, and the denyal of *Lodowick*, injurious: a fit opinion for *Arctine*, but for no modeſt Lawyer or Phyſician. Surely God never commanded theſe Pre- *Adamites.* *Adam* and *Eves* Pool. *Sforza* is refuſed to have a Lady ſeen naked before Marriage.

Marriage to be private and unknown, except to the Parties themselves.

contracts, nor these *Adamite* Interviews; for after *Adam* and *Eve* were Married, as soon as they understood themselves they got Fig-leaves to cover their Nakedness, and *Nox & amor*, Night-shades and secret places by Nature joined them, rather than the sight of the Sun. It is more warrantable therefore as to Precontracts, to follow God, who never commanded them, but Popes and Priests who keep them up for their filthy Lucre, and far more modest is it to make Marriage-Contracts *in Thalamo*, than *in Templo.*

Con-Thalamation before *Con-Templation.*

Conscius omnis abest, nutu signisq; Loquuntur.

and the same Poet gives as good further Councel to either,

Si piget in primo limine, siste pedem.

the Woman may rise up *illæsa Virginitate*; and *illæso pudore*; and as *Boaz* bid *Ruth*, *Cap.* 3. 14. *Let it not be known that a Woman came into the floor.* But *Si in hoc Convenimus ambo*; and they agree so well, that Conception follows, and a Child is born, were there neither Priest nor Temple within an Hundred Miles, yet it appears God was there who gave Birth to the Child; therefore as they will answer it before him, this Marriage is indissoluble by Pope or *Cæsar*, or any humane Power. I conclude therefore, Marriage ought by the Law of God to be Private and not Publick, and *Combalamation* ought to be before *Contemplation*, if the Parties have any Contemplation at all.

(2.) *It gives the Bishop the Monopoly of all Women, and their Goods.*

For he claiming to be Judg of Marriage and Divorce above Appeal, the greatest part of the Year and fittest for Marriage, they cannot Marry without his License, for which they must pay Money: and when Married, they lie at his Mercy whether he will part them again or no; for what he doth, there is thence no Appeal; if he do admit them to live together and death part them, yet no Jointure, no Divorce, no Thirds, no Aliment, unless he will vouchsafe his Certificate, for which they must pay Money; and this they get if they obey his Canons, and are Married by a Ceremony of a Priest in a Temple; if they come not to yoak themselves by his Ceremonies, then he calls them Whores, and exacts from them Money by Penance, seeing they would give none for Fees, and sets what Rates and Taxes by Fees or Penance as he pleaseth; so by his Power of Compulsion to this Ceremony, he Levieth his Rents on Obedients and Disobedients, and sheers both his Sheep and his Goats by having the Power of Compulsion of them to this Fold of his Temple; and without it, the same could not be done.

(3.) *It*

(3.) It gives him the Monopoly of Succeſſions both in Private Families and Kingdoms.

For he claiming to be Judg of Children as well as Parents, above Appeal, they all lie at the mercy of his Judgment, no Right of Primogeniture, no Filial Portion, no *Rationali parte*, no Hotch-pot, no *Collatio bonorum*, no Aliment can be had although they ſtarve, unleſs he vouchſafe his Certificate of what he knows no more than the man in the *Moon*: Yet could he not exerciſe this Power over the Children, had he not Power to compel the Parents to this Ceremony of their Marriages of a Prieſt in a Temple.

(4.) It gives him Power to Judg of Marriage, Filiation, and Succeſſions, by Fictions.

How great and how wicked the Power of Judging by Fictions is, hath been before mention'd; and the Primary Fictions enumerated, (1.) That intention of mind, and not Conjunctions of Bodies, makes Marriage, *P.* 83. (2.) That *Sponſa* before a Prieſt in a Temple, is *Uxor. ib. &* 86. (3.) That *Verba de præſenti*, are *Facta de Præterito & Futuro*, *P.* 84.

The Secondary Fictions and damnable Miſchiefs which enſue out of theſe Primary; for as *uno abſurdo dato mille ſequuntur*; So *uno Falſo dato mille ſequuntur*, have been likewiſe before mentioned and ſhewn at large. (1.) That if a Man deflower a Virgin with whom he may lawfully Marry and get her with Child, or hath many Children by her, that he may notwithſtanding deſert her and Marry another by a Prieſt in a Temple, deflower'd or begot with Child by another Man; and the latter, and not the firſt, is his Wife and Child. *P.* 88, 89. *(2.)* That a Child is not *Sib* or Kin, or of Conſanguinity, or the Child of the Father who begot, or the Mother who bare him, or they of him, *P.* 154, 155. (3.) That by the pronunciation of the words by the Prieſt, that the Man and Woman are Man and Wife, the Man is tranſubſtantiated into the Woman, and the Woman into the Man, and two Perſons into one Perſon; and the multitude of miſchiefs incident to this Fiction of Tranſubſtantiation are ſhewn at large before. *P.* 66, 67, *&c.* But 'tis Compulſion to the Ceremony of Marriage by a Prieſt, and in a Temple, is the *Cauſa ſine qua non*; neither the ſaid Primary or Secundary Fictions could be made, nor could any of thoſe manifold miſchiefs before mention'd, enſue from them; and if diſſentients in Conſcience, and differents in Convenience, had but that liberty permitted, which by the Moral and immutable Law of God they ought to have, to Marry without the

the Ceremony of a Priest in a Temple, the Bishop could not inslave themselves and their Posterity, their Religion, Liberty, and Propriety, to his worse than Arbitrary Judgment, to a False Judgment, a Lying Judgment, a Judgment by Fictions, had he not the Power to compel them to this Ceremony of a Priest and a Temple. So that were there nothing else to be said against this Compulsion, but that it causeth so great a mischief as Judgments by Fictions, it were enough to make it abhor'd by God and all good men: For grant but one Fiction in Religion, it will Spawn a Thousand Heresies; and grant but one Fiction in Judicial Proceeding, it will Spawn a Thousand Oppressions; and let the old Serpent but get in his Head, he will draw in his whole Body; *à Vero non declinabit Justus*, Justice comes from the God of Truth, and not from the Devil who is the Father of Lies.

(5.) *It causeth in the Rich Excess, and Vanity of Apparel, Tilting, Turnaments, Masking, Gluttony, Ryot, and Drunkenness.*

When there is a Marriage intended by a Priest in a Temple, the Bride is drest like a *Bartholomew-Baby*, or one of the Popish Saints, to be the Idol of the Place, then no Text shall be Preached on, but *her Clothing is of wrought Gold*; though far better Doctrine and more proper for such an occasion doth offer it self. *Isa.* 3. 16. And 1 *Pet.* 3. 3. *Whose adorning, let it not be that outward adorning of plaiting the Hair, and of wearing of Gold, or of putting on of Apparel.* The *Turk* in his Frugality may rise in Judgment against Christians; for one Christians Wife costs him more than Ten Wives of a *Turk*; which kind of Luxury first corrupts the mind,

Nil non permittit mulier sibi, turpe putat nil
Cum virides gemmas collo circumdedit, & cum
Auribus extensis magnos suspendit elenchos.

and corrupts and effeminates the State, by exhausting the Treasury in *Feminine*, which is necessary to be bestowed in Military Ornaments and maintenance. *Seneca* saith, That Women would wear too rich Inheritances at their Ears. And it is related of the Daughter of a Proconsul, That she wore at one time in Apparel and Jewels the value of Three Millions of Crowns. This Vanity is by many attributed to be one of the chief causes of the decay and ruin of the *Roman* Empire. I should but trespass on the Readers patience to recite the excessive Costs particularly, and the profuseness of Princes and great Persons, in Masking, Tilting, Tuneaments at publick Weddings, in one whereof a *French* King Tilting in Person was kill'd by the casual running of a Splinter of

of the ſtaff of the Lance into his Eye; as likewiſe to deſcribe the Gluttony, Riot and Drunkenneſs accompanying Marriage-Feaſts, they being all notorious.

(6.) It undoeth the Poor in their Marriages.

The chief times of the Year ſeaſonable for Marriage of *Advent*, *Septuageſima*, and *Rogation*, it deprives the Poor of the uſe of Gods Ordinance; for they are neither able to loſe their days labour to travel to the Court, nor to expend the Money neceſſary to pay for a Licenſe to Marry; and when Married publickly by a Prieſt in a Temple, the expenſe of new Cloths for Man and Woman, the Wedding Dinner, the Barrel of Beer, the Bridale-Night, the Baptizing of the Child, the God-Fathers and God-Mothers, the Goſſips, and Churching the Woman Falling all within the compaſs of the Year, moſt commonly bring the Poor man ſo far in Debt, that he never recovers out of it as long as he lives.

I was informed of a certain Poor Man, who intending to be Married, agreed the day with the Miniſter and Clerk, and accordingly on a Prayer day, he and the Woman came to the Church intending to be Married, and came up to the appointed place in the Body of the Church, where the Miniſter reading firſt the Form preſcribed of the Inſtitution and Ends of Marriage, before he joined their hands to Contract them, the man to be Married laid his Money on the Miniſters Book, that he might proceed to Marry him; which the Miniſter refuſed to do, unleſs he would give him more Money than there was; the man anſwer'd, There was all he had, and prayed him to accept thereof; the Miniſter peremptorily refuſed (unleſs he made up the Price) to Marry him; the Poor man ſeeing no remedy, took up his Money again, and he and his Woman returned to his Houſe without any joining or Benediction of the Prieſt; and whether he had a Malediction I cannot tell, but at Night the Couple that were thus Churched and not Married the Ceremonial way, went to Bed and Married themſelves the Real way; which though contrary to Epiſcopal Canons, yet no Biſhops can ſhew to be contrary to the Moral Law of God; but every one can ſhew that Laws of compulſion of a Poor man to marry by the Ceremony of a Prieſt, and giving liberty to the Prieſt to refuſe to Marry him, unleſs he pay him more than he hath, are contrary to the Moral Law of God; for this is prohibiting to Marry, and a depriving of the Poor of the Uſe of Gods Ordinance, which is already proved to be the Doctrine of Devils.

(7.) It

(7.) *It causeth immodesty in Brides, wanton Songs and Ceremonies, promiscuary Dancing, and corruption of Youth.*

How modest Nature is in the State of Innocence, appears well in the expression of a Vertuous young Lady, a Virgin, who said, She wondred how any Woman could have the face to go openly to Church with a Man; and the Custom of most Nations not to suffer any Woman to appear in Publick without a Veil, manifesteth the same: Yea, *Mahomet* himself forbids Women to expose themselves to publick view; for thus, *Alch. Cap.* 33. *P.* 262. he represents God speaking to him; Oh Prophet, speak to thy Wives and thy Daughters, and the Wives of True Believers, that they cover themselves with Veils. And *Cap.* 24. Speak unto the true believing Women, that they retain their Sight, and that they be Chast, that they suffer nothing of their Beauty to be seen but what ought to be seen; and that they cover their Bosome and their Visage, that they permit them not to be seen but by their Husbands, their Children, the Children of their Husbands, their Brothers, their Nephews, their Sisters, their Women, their Daughters, Maid-Servants, and Slaves, their Domesticks that are not capable of Marriage, and Children that regard not the Beauty of Women. And this publick exposing of Virgins in their Marriages to be the Gazing-stocks of the multitude in a Congregation, seems likewise against the precept in Scripture, 1 *Cor.* 11. 10. *For this cause ought a Woman to have Power on her Head, because of the Angels*; which is interpreted, covering on her head; and is likewise prohibited by Christ, *Matth.* 5. 28. *Whosoever looketh on a Woman to lust after her, hath committed Adultery with her already in his Heart.* If it be therefore Adultery to look on a Woman to lust after her, then is it a Temptation to Adultery to expose her who is to be another mans Wife to the publick view of the whole Congregation in all the dress of Temptation whereof Beauty can be capable.

Qui videt is peccat, qui non te viderit ergo
Non cupiet, Facti crimina lumen habet.

Propert. lib. 3. Eleg.

Who sees thee Sins; who not, doth neither hate
Nor love thee: Light hath all the Crimes of Fate.

Why it is not more modest therefore for Virgins to Marry *in Thalamo*, than *in Templo*, appears not.

I shall recite not here the particular wanton Songs and Ceremonies which are used with us and in other Nations, by reason of this pompous Ceremony of leading the Bride to the Priest and Temple amongst a Rout

Rout of Boys, for whom between her Banning and her Churching it is a ſufficient ſport a Week after; leſt the ſame ſhould cauſe, what I endeavour to avoid, the Corruption of Youth; and ſhall only here mention the grave Admonition of a Poet concerning the ſame,

Nil dictu fœdum viſuq; hæc limina tangat,
Intra quæ Puer eſt, procul hinc procul inde Puellæ.
Lenonum & Cantus pernoctantis Paraſiti,
Maxima debetur puero reverentia ſiquid
Turpe paras, nec tu pueri contempſeris Annos. Juvenal.

(8.) *It expoſeth to publick view, what God hath commanded to be ſecret; and ridiculouſly appointeth ocular Witneſſes of what is inviſible, and neither lawful nor poſſible to be ſeen.* Of this, *Vid.* P. 101, 104. before.

(9.) *It cauſeth Community of Women, Community of Children, Fornication, Adultery, Stews, Brothels, and the diſſemination of moſt contagious and deadly Diſeaſes amongſt the People.*

As to Community of Women, it is manifeſt, that the Canon of the Council of *Trent*, which nulls all Marriages except before a Prieſt in a Temple, and the Certificates of Biſhops and Penance, gives a general Licenſe for Money, either the *Taxa Camera* of the Pope, or the Commutation Money of the Biſhops, to have all Women common: for by decreeing no Marriages ſhall be of Validity, except with a Woman brought before a Prieſt and a Temple, they null and diſſolve all Marriages made by the Moral Law of God, and the Obligations of them; whereby if any man lie with an Hundred Women, and get them with Child, if he hath been ſo cunning as not to lead any of them to a Prieſt in a Temple, there is no obligation on him to own any of theſe for Wife or Child, in regard the Moral Law of God is aboliſh'd by the Papal and Epiſcopal Canons, and made of no effect by their Traditions and wicked Cuſtoms; and the Party is left free to lie with as many more, and to have common amongſt them *Sans nombre*, if he will but give them Money for their Hire, and the Biſhop Commutation Money; and what is this but to have Women common to the Rich, and to exclude the Poor who have not Money, from having any? But this would be prevented, if the Biſhops would, as they ought to do, compel the man who gets a Virgin with-Child, to marry her according to the Moral Law of God, and the expreſs Precept of Scripture, *Exod.* 22. 16. *If a man entice a Maid who is not betrothed, he ſhall ſurely endow her to be his Wife.* Which enticement is as well intended by Money, as Wantonneſs, and the Law the ſame, as well in caſe of Force or Rape, as enticement,

ment, but more Penal. *Deut.* 22. 28. *If a man find a Damſel that is a Virgin which is not betrothed, and lay hold on her and lie with her, and they be found, then the man that lay with her ſhall give the Virgins Father Fifty Sheckels of Silver, and ſhe ſhall be his Wife, becauſe he hath humbled her, he may not put her away all his days.* This is the clear Moral Law of God, and the clear Texts of Scripture, and there is by them laid an indiſſoluble obligation on the man according to the old Form of Eſpouſal, *Se poſt Concubitum invitam non deſerturum*; and if there is a Child born, by reaſon of the further Obligation of Parents laid on them by the manifeſt Act of God, it is not in the Power of theſe Virgins who are now become Mothers, will they, nill they, nor of any human Power, to diſſolve that which the Divine Power by giving birth to a Child hath once eſtabliſhed. But Popes and Biſhops are ſo far from compelling theſe deflowrers of Virgins, to Marry them and theſe begetters of Children to acknowledg them according to this moſt clear and juſt Law of God, and according to the Obligations both *Ex Contractu Reali*, which are the lying with them and getting them with-Child, and *Ex Maleficio Reali*, which are the ſame, that they like the Giants who would ſtorm Heaven, (Oh Helliſh preſumption !) Level all the Canons they have, againſt the Divine Laws of God himſelf, and with them tear in pieces all Obligations laid by them of Husbands to Wives, and Fathers to Children, that Women may be in common, and Children in common, *Nullius Filii Populi Filii*; confounding Heaven and Earth, and all Divine and Human Rights, and ſubverting the courſe of Nature as far as they are able, to obtain to themſelves the inexhauſtible Treaſure and invincible Power over Princes and People, over Emperors and Kings, incident to the Juriſdiction of *Marriage*, *Filiation*, and *Succeſſion*.

But how eaſily are theſe Giants quell'd, and all the miſchiefs enſue, by their letting the World looſe to Community of Women, and Community of Children. (1.) 'Tis but to give liberty to thoſe who Marry, to Marry according to the Moral Law of God, and to free them from compulſion to the Ceremonial Law of a Prieſt in a Temple. (2.) 'Tis but to give Power to the Temporal Judges and Magiſtrates to compel ſuch as have had Children by Virgins, and deſert them, to acknowledg thoſe Virgins, according to the clear Texts of Scripture, to be their Wives, and not to leave them and their Children in common; which ought to be their incloſed Propriety.

Whence would enſue, that if any man ſaw, that whatſoever Virgin he did firſt touch, he ſhould be compell'd to take, he would follow the Poets Counſel.

——*Multis*

——*Multis è millibus unam*
Elige, cui dicas tu mihi ſola places. Ovid.

He would certainly chooſe, unleſs corrupted by Money, one whom he liked above all others; and having ſo fair a Garden incloſed of his own choice, he would be the more unlikely to run to graze in a Common; or if he ſhould, he might find his expectation much deceiv'd: for the ſame Juſtice having been done by the Magiſtrate on all others as well as himſelf, he would find no Common to run in, but every Quillet incloſed; nor ſhould a ſingle Woman be let, would ſhe take him where another had Right, to claim him. As to Fornication, Adultery, Stews, Brothels, how great a cauſe the compulſion of Publick Appearance in Marriage before a Prieſt in a Temple by prohibition of Private Marriage, is, the ſame is ſhewn already before, *P.* 107, and as to the diſſemination, by Fornication, Adultery, Stews and Brothels, not only of that *miſerabile ſcortorum flagellum*, the *Lues Venerea*, the inſeparable concomitant of thoſe Vices and Places, but likewiſe of all other Epidemical contagious and deadly Diſeaſes amongſt the People, the ſame is notorious, but Epiſcopal Courts get as much by the Dead as the Living, and more by the Vicious than Vertuous. It is their Intereſt therefore to continue it ſo long as they can.

It will be objected againſt the giving Power to Temporal Magiſtrates, to compel every Man who hath a Child or Children by a Virgin, to acknowledg her for his Wife, and her Children his, on Probation made of the Fact, that 'tis impoſſible if Marriages are tolerated without a Prieſt in a Temple, or a Juſtice of Peace in his Hall or Banns, at the Church or Market-Croſs, to have Witneſſes or any other Teſtimony or Evidence of the Fact, unleſs the Magiſtrate ſhould give Sentence, as the Biſhop doth, without Probation.

To which is anſwer'd, Firſt, That Toleration of Private Marriage without Publick Witneſs of Prieſt or Magiſtrate, is no denial of liberty to thoſe who deſire Publick Witneſs of their Contracts of Marriage; no more than the Toleration of paſſing Lands by Livery and Seiſin *in Pays*, is a denial to paſs them by Fines and Recoveries, or other matter of Record, which is publick Teſtimony; but Parties may uſe one or the other, or both, as they deſire and think ſuits beſt with their Conveniences; but that which is here preſs'd, is, that no Mans Chriſtian Liberty be infringed, nor he be compell'd to make publick Witneſſes either of Prieſt or Magiſtrate, but be left free, where God hath not prohibited him, to do as beſt ſuits with his own Conſcience and Convenience, without unjuſt Penalties laid on himſelf, his Wife or his Children, for omiſſion of a Ceremony never inſtituted by God, but full of great danger

and miſchief to many, though not to all, whoſe Conſciences and Conveniences are not alike, but of different States, as is already before ſhewn, *P.* 108. eſpecially between Poor and Rich; for the Poor need neither Writing nor Witneſſes for Portions or Jointures, as perhaps the Rich think themſelves to need.

Secondly, Parties that deſire Witneſſes, may, no queſtion, have better Witneſſes at their own Home in Private, and with leſs inconvenience, as well for Contract of Marriage, as they have for all other Civil Contracts; than a Prieſt in a Temple, or Juſtice of Peace in his Hall, or Biſhop in his Cathedral, or ony other Publick Officer whatſoever; and one of the *Jews* ways, which was never queſtion'd, but lawful and convenient was, to Marry by written Inſtruments of Contract without Prieſt or Temple.

Thirdly, Though Parties that Marry have neither Witneſs Publick or Private, yet they have Power, if they can Write, to give a Note in Writing one to another; or if they cannot, to give ſuch ſecret Tokens or Pledges, as without Witneſſes, will be ſufficient to evidence their ſecret Congreſſes when their happens any neceſſity, as *Judah* when he went in to *Tamar* his Daughter in Law, *Gen.* 38. 18. He ſaid, *What Pledg ſhall I give thee? and ſhe ſaid, Thy Signet and thy Bracelets, and thy Staff that is in thy hand; and he gave it her, and came in unto her, and ſhe Conceived by him*; and after, being accuſed of Whoredom, *Verſe* 25. *When ſhe was brought forth ſhe ſent to her Father in Law, ſaying, by the Man whoſe theſe are, am I with-Child; and ſhe ſaid, diſcern, I pray thee, whoſe theſe are, the Signet, and Bracelets, and Staff*: and *Judah* acknowledged them.

Fourthly, If the Law were made, as it ought to be, That Private Marriage without Witneſs, and Procreation of a Child, between two Perſons not prohibited by the Law of God to Marry, ſhould be a Civil Act *Sine pœna aut infamia*, and not a Criminal, as it is unjuſtly made in the Biſhops Courts; if done without their Ceremonies of a Prieſt in a Temple, the Proceeding of a Temporal Judg would be then Legal, and according to the ordinary courſe of Juſtice, (if a Woman came before him and firſt took her Oath, that ſuch a man had her Virginity, and that the Child ſhe hath is his Child) to put the man to his Oath concerning the ſame; for this is then no Oath *Ex Officio*, nor Self-accuſation of a Crime, when the Fact is made no Crime, and is no other than like an Oath of diſcovery of a Civil Contract in Chancery, or Wager of Law, of No Debt, or Non-Summons at Common Law, and only gives the Woman and her Child the Civil Benefit to be in as good a State and Condition, as if ſhe had been Married by the Ceremony of a Prieſt in a Temple, and no farther; and this without Penalty to the Father, who being put to his Oath, if he deny not what is alledged

againſt

againſt him, nothing is more juſt than that he ſhould be compell'd (if he refuſe) to acknowledg the Woman to be his Wife, and the Child his Child.

Fifthly, When once it were known that the Magiſtrate had a Legal Power to perform this, he would be rarely troubled concerning any ſecret Marriage; but every man concerned in the ſame will be careful ſo much the more to perform the duty both of an Husband and Father in a Secret than a Publick Marriage, by how much the more he deſires to keep it ſecret.

(10.) *It cauſeth Proſtitutions of Brides to Prieſts, Lords, Gueſts, and others.*

Examples of this in Prieſts are before ſhewn, *P.* 53, 54. of Lords, *P.* 24, 25. *Sabellicus* reports of the like Cuſtom amongſt the old *Carthaginians*; the like was amongſt the ancient *Scots*, *Perſians*, *Uri Swiſs*, *under-Waldenſians*, *Moors*, and others; all which wicked Cuſtoms had been eaſily prevented and avoided, had not the People been compell'd to Marry by the Publick Ceremony of a Prieſt and a Temple.

(11.) *It cauſed the Conſecration of Inceſt, Whores and Sodomites, to attend the Service of the Prieſts and Temples.*

The way of Conſecration of the *Perſian Magi*, by lying with their Mothers, Siſters, and Daughters, is before toucht, *P.* 44. and the way Pope *Alexander* obtained his Holineſs, ſeems not much to differ from the *Magi*, by the Epitaph of his Saint,

Hoc jacet in tumulo Lucretia nomine, ſed re
Thais, Alexandri *Filia*, Sponſa, *nurus*.

The Conſecration of Whores and Sodomites, whom, the Prieſts let to hire in the Temples and Groves for their gain, was ſo common amongſt the old *Pagan* Nations, that the *Jews* made uſe of the word ſignifying a Perſon Conſecrated, to ſignifie a Whore and a Sodomite, as the *Hebrew* word *Kadaſh*, *Joſ.* 2. 1. is tranſlated in *Engliſh*, *Harlot*, and *Rahab* is ſo called; and 1 *Kings* 14. 24. the ſame is tranſlated *Sodomite*; yea at this day the Devil, under the name of Holineſs, ſo much poſſeſſes the *American* Prieſts of *Pegu*, that they keep in the Temples Conſecrated Sodomites, to make gains of them to the Prieſt, who are eſteemed by the People moſt Sacred. Oh to what height of wickedneſs doth the Devil draw people, where he makes the Prieſt his Inſtrument to counterfeit Holineſs with their Ceremonious Fopperies of Conſecration, and bring the ſame into a Temple with the Name and Doctrine of being Sacred. The

ſame

same was done amongst the *Greeks*, a wise Nation, and by a wise Legislator of theirs, even *Solon* himself; yet did the Devil and Priest delude him under the name of Holiness; for he caused by his Laws, as a Fundamental of Government, to begin his *Magna Charta* with the Privileges of the Holy Church, and to that end he appoints a Temple to be Dedicated to *Venus*, and Priests to be Consecrated, and Sacrifices instituted; and to be well govern'd by the Priests, he stocked the Temple with a multitude of Consecrated Whores, to be let to hire to increase the Priests Profit and Pleasure; and this Holy Church he endowed with great Revenues and Privileges. There were the like Holy Churches filled with the like Holy Sisters at *Ephesus*, at *Corinth*, and *Abydos*, and so great veneration they were in amongst the People, no doubt, by the many pious Sermons of the Priests, what Miracles these Female Angels could do, that they attributed the whole overthrow of *Xerxes*, with his almost innumerable Army, to the Holy Prayers of these Consecrated Whores, in their Temples or Stews, to their Goddess *Venus*. Here Whoredom for the gains of the Priests and Temples is Consecrated, and believed not only by the grosser sort of People, but by the chief Princes and Governour, to be a Thing most Sacred.

Adultery Consecrated under the name of Marriage.

And is not Adultery with us, more wickedly than Fornication amongst the Heathen, Consecrated by compulsion to the Ceremony of a Priest in a Temple? It is; for if *A.* get *B.* with-Child, and deserts her, and *C.* get *D.* with-Child, and deserts her, and *A.* gets the good will of *D*, and *C* gets the good will of *B*, and the two Women being both with-Child, and both deserted, grow more politick to prevent after desertions, and tell their new Courtiers peremptorily, that they shall expect no farther favour from them until they lead them before a Priest in a Temple, and Marry them there; now the only lawful way had been for these two Women to relieve themselves against their unjust Desertors, that a Magistrate had a Legal Power on complaint of the Women injured, to compel each Desertor to acknowledg his proper Wife and Child; but they take here a course to leap out of the Pan into the Fire, and to cure or cover a lesser Evil, by committing a greater, and go to Church to commit Cross-Adultery, and Cross-Marry, one the Man who had got the other with-Child, and the other the Man who had got the first with-Child; and the Priest accordingly joins them, and contracts and pronounces each Couple Man and Wife, and gives his Benediction; is not here Adultery Consecrated under the name of Marriage, and false Wives given to false Husbands, and false Children to false Fathers? and this Consecration of Adultery makes it so indissoluble, that no Probation shall be admitted to the contrary, either for Husband or Wife, or Father or Child. Certainly this is far worse than any Consecration of Fornication amongst the *Pagan* Priests of *Priapus* or *Venus*. Well doth

Arnob.

Arnob. contra gent. therefore ſay, Where are Whoredoms more committed than by Prieſts in the Temples, and by the Altars? where are Uncleanneſs more practiſed, and Adulteries more meditated? Laſtly, burning Luſt is more frequently diſcharged in Chancels, than in Brothels. I ſhall only add a word from a Poet concerning the *Romiſh* Clergy,

——*Nulla hic Arcana revelo,*
Nou ignota loquor, liceat vulgata referre;
Sic urbes populiq; ferunt, ea fama per omnem
Jam vetus Europam mores extirpat honeſtos
Sanctus ager Curris, venerabilis Ara Cyneæis
Servit, honorandis divum Ganymedibus ædes.

I had not defiled Paper with ſo much of their Filthineſs, had not this *Romiſh* Ceremony of a Prieſt and a Temple ſo far beſotted the Senſes of many ignorant People, as they imagine Marriage made by a Ceremony of ſo unclean an Original, and cauſing ſo great and abominable Uncleanneſs, ſhould make a Marriage more Holy, than one made without it according to Gods own Holy Ordinance in his Moral Law.

(12.) *It cauſed the Conſecration and Adoration of* Priapus, Baal-Peor, Venus, Adonis, *and* Flora, *for Gods and Goddeſſes, and was the firſt which defiled the Virgin-World with Whoredom and Idolatry.*

The World in its Primitive Innocence kept all Wives ſecured under the Cuſtody of their Husbands, and all Daughters under the Cuſtody of their Parents; the ſtrictneſs of which appears to this day in many *Southern* and *Eaſtern* Nations, till the Prieſts of *Priapus* and *Venus*, for they were the moſt ancient of which any Hiſtories ſpeak; and as *Cornelius Agrippa* mentions, none were to be admitted Prieſts who were not firſt initiated in the Myſteries of *Priapus*. Theſe therefore could not pretend to be Prieſts, unleſs they had a God or Goddeſs to whom they might pretend to Sacrifice and Serve, and become mediators to preſent the Prayers of the People; a God they could not have, unleſs they made an Idol; and an Idol they could not have, without a Temple to ſecure it, and their rich Offerings, againſt the Spoil either of Thieves or Weather: So the Building of Temples was the firſt means of ſetting up Idols, and the ſetting up Idols the firſt means of Conſecration and Adoration of them, for Gods and Goddeſſes; and to draw a Conflux of Worſhippers, there was no better way of Temptation of the Men, than by the Women; and of the Women, than by the Men, and of both them, by Feaſting with Sacrifice, Muſick,

Muſick, Dancing, Dalliance and Whoredom; whence ſo frequently Idolatry in Scripture is called *going a Whoreing after Idols*: for indeed the Prieſts became thereby the Pandars-General, as *Cornelius Agrippa* calls them, by drawing Women to their Temples both for Marriages and Whoredoms, and firſt made them offer their Virginities for Sacrifices to their Idols and Prieſts, before this Spiritual Court of theirs would give them Licenſes to Marry; for which, as now, they compell'd them to pay their Fees; and to colour this Uncleaneſs the better, they Conſecrated thoſe impure Gods and Goddeſſes, *Priapus*, *Baal-Peor*, *Milcom*, *Adonis*, (whoſe Worſhippers were the ſame the Scripture calls the *Mourners for Tamuz*) *Venus* and *Flora*, and inſtituted to them Sacrifices and Adorations, as the moſt Sacred and Potent Deities; and though the *Feminine* part of the World remained then in the ſtricteſt Cuſtody, whether Wives or Daughters, which in the firſt is allowed and commended even by the wanton Love-Poet himſelf,

Nupta virum timeat, rata ſit Cuſtodia nupta;
Hoc decet, hoc leges, juſq; pudorq; jubent.

Wife fear thy Husband. Let thy Wardſhip ſtand,
'Tis fair; this Laws, Right, modeſty command.

Neither had it been poſſible to have undermin'd in the Worlds Infancy thoſe ſtrong Fortifications of the Modeſty of Wives, and Chaſtity of Daughters, had not the Magical Prieſt and Devil both conſpired to have charmed them out of the holes of their Rocks with the Songs, Muſick, Dancing and Feſtivals of Sacrifices, under the pretence of the command and ſervice of theſe Sacred and potent Gods before mention'd, to the Publick places of Sacrifice and Temples; where when they once had them, they did with them what they pleaſed, ſometimes in their Mattens and Veſpers by day, and ſometimes in their Vigils by night, and by degrees brought them firſt by Inticements, and at laſt by Compulſion, not to Marry without a Prieſt in a Temple.

(13.) *It firſt deſtroyed in the World the Omnipreſential Worſhip of God.*

In all the times before *Moſes*, except amongſt Idolaters, there was no Publick Temple built for the Worſhip of God, nor Tabernacles; nor do we find any publick Conventions of Worſhip, except as aforeſaid; yet were thoſe Times full of men Famous for Piety, *Abraham* himſelf, *Gen.* 21. planted a Grove to call upon the name of the Lord, which was for Privacy, and not to be Publick, the dwelling in Tents not affording that convenience of Secrecy which Chriſt commands of Prayer in

in the Cloſet, and he went to an Hill alone to Sacrifice *Iſaac*, and would not ſo much as ſuffer one Servant to go with him, *Gen.* 22.5. And in old time they called every high Hill which afforded the benefit of Privacy of Prayer, *the Hill of God.* And Chriſt himſelf, *Matth.* 14. 23. *When he had ſent the multitude away, he went up into a Mountain apart to Pray*, which was for Privacy, and he compell'd not the multitude to Pray with him, nor ſo much as any Diſciple; for it is ſaid, when the Evening was come he was there alone; but both Groves and High-places, which were by Prieſts Conſecrated for publick Conventions of Men and Women to Worſhip Publickly, are commanded in Scripture to be deſtroyed, *Levit.* 26. 30. *Hoſ.* 10. 8. *Amos* 7. 9.

The firſt who built Temples were the old *Egyptian* Prieſts, which they Dedicated to *Priapus*, and drawing Women thither by Conſecrated Whoredom, thereby inſtituted the ſame the places of Publick Worſhip as well as of Marriage. The next was *Cecrops* King of *Athens*, who firſt in *Greece* inſtituted Marriage by a Prieſt in a Temple, and with the ſame brought in the Publick Worſhip of Idols and Altars, and Sacrifice for them; whereby People were drawn from the Private and Omnipreſential Worſhip of God, to Marry and Worſhip Idols in Temples, for the Gains of the Prieſts: yet even amongſt theſe Idolaters, the wiſer ſort, though Heathens, underſtood theſe Pontifical Impoſtures, but durſt not ſpeak againſt them; as neither did *Plato* nor *Ariſtotle*, being warned by the Fate of *Socrates*, though they many times expreſs'd themſelves, that they believed the Omnipreſence of God. One deſiring *Demonax* to go into the Temple of *Eſculapius* to pray for the health of his Son, *Is he ſo deaf*, ſaid he, *that he can hear no where but in a Temple?* Eraſ. lib. 8. Apopth. And *Eratus* the *Greek* Poet, whom *Paul* cites, ſpeaks thus of Gods Omnipreſence, *Plena ſunt Jovis omnes Platee, Omnium etiam hominum Fora; plenum eſt & mare, Pleni ſunt & Portus; ubiq; Jove fruimur; omnes Hujus enim genus ſumus.* So the great *Latine* Poet, *Virgil* Eclog. 3.

Heathens believed the Omnipreſence.

——*Jovis omnia plena,*
Ille colit terras illi, mea Carmina curæ.

Jove keeps the Earth, all things full of him are,
And he even of my *Verſes* taketh care.

Cato after the overthrow given by *Cæſar* to *Pompey*, of whoſe Party he was, being adviſed to conſult with the Oracle of *Jupiter Hammon* what courſe he were beſt take; Anſwers thus,

Eſtne Dei ſedes niſi Terra & Pontus, & Aer,
Et cælum & virtus? ſuperos quid quæritis ultra?
Jupiter eſt quocunq; vides, quocunq; moveris. Lucan.

Is Gods Seat other than Earth, Sea, and Air,
And Heaven and Vertue? why do you deſpair,
And ſeek beyond? who whereſoe're in theſe
You go or ſee, there to be found doth pleaſe.

It is not here affirmed, (as is already ſaid) That 'tis unlawful for any to Marry or Worſhip by a Prieſt in a Temple, or in a Publick Convention; but it ſeems unlawful to compel any whoſe Conſcience is diſſentient or doubtful; and that the Scriptures and Chriſt are ſo far from Compulſion, that where Parties are not agreed, they forbid ſo much as two or three to convene, as *Amos* 3. 3. *Can two walk together, except they agree?* and though they do agree, yet ſingle Prayer in private ſeems to be prefer'd, as appears by what follows.

Prayer in Temples and Synagogues forbid by Chriſt, and a diſtinction of the Place of Prayer and Preaching Commanded.

There is as little encouragement given by the Prophets in the Old Teſtament for Sacrifices, Altars and Temples, as there is by Chriſt in the New, for Prayer and Sacrament in Synagogues and Temples *Jer.* 7. 4. *Truſt ye not in lying words, ſaying, The Temple of the Lord, the Temple of the Lord, the Temple of the Lord theſe are.* Hoſ. 8. 14. Iſra'l *hath forgotten his Maker, and buildeth Temples.* *Revel.* 21. 22. There was no Temple in the New *Jeruſalem*, nor was there any Temple in the Earthly Paradiſe more than in the Heavenly, yet was Marriage inſtituted by God. But hear next what he, who ſaith, *Matth.* 12. 6. *here is one greater than the Temple*, will ſay of Prayer in Synagogues which were the *Jews* Parochial Churches, and Temples which were the Cathedrals. *John* 4. 21. Jeſus talking with the *Samaritan* Woman, ſaith unto her, *Believe me, the hour cometh when ye ſhall neither in this Mountain, nor in* Jeruſa'lem *Worſhip the Father.* And *Verſe* 23. *The hour cometh, and now is, when the true Worſhippers ſhall Worſhip the Father in Spirit and in Truth: for the Father ſeeketh ſuch to Worſhip him. And they that Worſhip him, muſt Worſhip him in Spirit, and Truth* 'Tis granted, the *Jews* ſet up a Local Worſhip in Synagogues and Temples, but this Judaiſme Chriſt expreſsly ſaith, the hour was then come that it muſt be aboliſh'd, and all *Jewiſh* Ceremonial Law, and the Temple it ſelf he foretold,

told, in the future there ſhould not be left one ſtone upon another. That he forbids a Prayer to be made in Synagogues, Temples, or any other publick Place, and commands the ſame to be made privately in the Cloſet, appears, *Matth.* 6. 5. *When thou prayeſt, thou ſhalt not be as the Hypocrites are: for they love to pray ſtanding in the Synagogues, and in the Corners of the Streets, that they may be ſeen of Men. Verily I ſay unto you, they have their reward. But when thou prayeſt, enter into thy Cloſet, and when thou haſt ſhut thy door, pray to thy Father which is in ſecret, and thy Father which ſeeth in ſecret, ſhall reward thee openly.* The *Jewiſh* Synagogues were their Churches or Temples, having a leſſer or Parochial Juriſdiction; and the Cathedral Church or great Temple having the National Juriſdiction; but Prayer in both is aboliſhed by Chriſt. It is granted that in both the leſſer and the greater Chriſt uſed to Teach, as it is ſaid, *Matth.* 4. 23. *And Jeſus went about all* Galilee, *teaching in their Synagogues, and preaching the Goſpel of the Kingdom, and healing all manner of ſickneſs, and all manner of Diſeaſes amongſt the People.* And *Mar.* 14. 49. he ſaith of himſelf, *I was daily teaching in the Temple.* And the avoiding of publick Prayer he taught not only by his Precept but Example, for we never find that he ſo much as Convened the Twelve, who were his own Family, to pray with him, but *Mark* 1. 35. *He went out, and departed into a ſolitary place, and there prayed.* And *Matth.* 14. 23. *He went up into a Mountain apart to pray: and when the Evening was come, he was there alone.* And *Matth.* 26. 36. *Then cometh Jeſus with them unto a place called* Gethſemane, *and ſaith unto the Diſciples; Sit ye here, while I go and pray yonder.* Whereby it is clear, that Chriſt both by Precept and Example taught, there ought a diſtinction to be made between the place of Preaching and Prayer; the one to be publick, the other to be private, the one to be in conventions, the other to be ſingle and alone; and if he prohibited the contrary to any who were free, he much more prohibited any ſhould be compell'd.

Then as to *Non-Communicants*, 'tis manifeſt Chriſt never inſtituted the Sacrament in a Church, or Temple, nor appointed the ſame to be after Celebrated there; for he inſtituted it in a private Houſe, and no company with him, but his own private Family with him, as *Matth.* 26. 17. It is ſaid, *Now the firſt day of the Feaſt of unlevened bread, the Diſciples came to Jeſus, ſaying unto him, where wilt thou that we prepare for thee to eat the Paſſeover? And he ſaid, Go into the City to ſuch a man, and ſay unto him, The Maſter ſaith, My time is at hand, I will keep the Paſſeover at thy Houſe with my Diſciples.* The reaſons why Chriſt prohibited publick and commanded private Prayers, may be divers. (1.) The firſt is expreſs'd to avoid vain glory, and ſuſpition of Hypocriſie. (2.) To avoid the dangers incident to Conventions in Temples, or publick Places, whereby he foreſaw his Church might be deſtroyed; and how many of the Primitive

Chriſtians, and ſince, have by this means of the Conventions in Churches and Temples, ſuffer'd; ſome have had the Churches fired about them and themſelves burnt in them, others have been in them Maſſacred with the Sword, others carried away and deſtroyed by Torments, which had never happened to them, if they had followed Chriſts Precept, of not caſting their Pearl before Swine; or when they were perſecuted in one City, to flie to another, or kept themſelves in their Cloſets to pray. (3.) The impoſſibility of a Convention of People to agree what they would have prayed for, were it but when they would have Rain and Dry-weather. (4) The impoſſibility of worſhipping God in Spirit and Truth, unleſs he is worſhip'd as Omnipreſent; for as he that worſhips God in an Image, or towards an Image, commits Idolatry, becauſe he confines his Omnipreſence to the petty Priſon of an Idol: ſo, who in his Imagination comprehends him who is Incomprehenſible, in the walls of a Temple, is as guilty of Idolatry as the other, only one worſhips him in a greater Idol, and the other in a leſſer. And as to Marriage in a Temple, or by a Prieſt, 'tis manifeſt the *Jews* never Married in a Temple, nor did Chriſt ever Marry any Man or Woman, nor any of the Apoſtles Marry any, nor had any Precept to do it; and all the Primitive Chriſtians for 300 Years after Chriſt, ſo far obſerved the Precept and Example of Chriſt, and abhor'd Marriage, or Worſhip in Temples and Altars; that *Celſus* doth reproach them with it, that they had no Sacred places of publick Worſhip; and *Origen* in Anſwer, confeſſeth that they were not inſtituted by Chriſt, but crept in afterwards.

Notwithſtanding all which, the Divinity of the later Times hath been ſo far from following the Precept and Example of Chriſt, that it hath deſtroyed the Omnipreſential Worſhip of God, commanded by him in Spirit and Truth, with a gawdy Ceremonial Worſhip by Prieſts and Temples; for to diſcover the Truth of this great Myſtery of Iniquity, of Popiſh Prieſts, it concerns them in the higheſt points of their Profit, to aboliſh as much as they can poſſible, all thoughts of Gods Omnipreſence, for if this is once underſtood, it will appear there is no need for the People to pray by a Prieſt, whereby they will loſe their gainful Offices of Maſters of Requeſts; for where the Prince is in preſence, there needs no ſuch Officer. (2.) This will loſe their gainful Office of Confeſſion of Sins, for where God is in Preſence, 'tis better to confeſs to him than the Prieſt. (3. It will loſe them their Pardon-Office, which brings them in Millions; for who is ſo mad to beg Pardon of a Prieſt, if God is in preſence, and he may beg it of him? (4.) It will loſe him his great Office of Benediction of all thoſe who are Married in his Temple; for if God is in preſence at home, of whom the Party may crave a Benediction, who is ſo mad to think he need go beg a Benediction of a Prieſt in a Temple? (5) It will loſe him his Office of Excommunication, and caſting out of

his

his Synagogue and out of the Preſence of God: for if God is Omnipreſent, then can none caſt out of his preſence: for theſe good Reaſons are all the Clamorous School men ſilent, and have writ nothing Material concerning that great Attribute of God his Omnipreſence: nor have the innumerable Heaps of Theologiſts incloſed any thing conſiderable of this point: nor have the Biſhops ſo much as once named it in the 39. Articles; but, like Lapwings, drawing the Readers as far as they can from their neſt, diverting his Fancy when they ſpeak of God, to matters unintelligible, and not neceſſary to Salvation, and fitting the reſt with matters totally Tending to their gain.

I cannot paſs the Contemplation of the Omnipreſence of God, without ſome further Remarques; for without this he could not be Omnipotent, he could not be Omniſcient, he could not be a God, he could not be diſtinguiſhed or known from an Angel or Dæmon, or any inferior Spirit, or Inviſible Power: But that theſe are Circumſcribed in their Vagrant Ubi's, or Chain'd to their fix'd Localities; to dwell in ſuch a Temple, to haunt ſuch a Grove, to give their Reſponſe from the hollow of ſuch a Dodonæan Oak, Such a Delphick Den, from the belly of ſuch a Sibyll, the Breaſt of ſuch a Prophet, the Brayns of ſuch a Dreamer of Dreams; Theſe ſhew their Miracles only at ſuch an Image, ſuch an Idol, ſuch a Tomb, ſuch a Sepulchre, ſuch a Fountain, ſuch a River, ſuch a Pool of *Bethesda*; But are not able to ſhew them every where, nor to be preſent every where. Seeing therefore to believe in God only, is the Fundamental of all Religion, and we cannot believe in Him unleſs we know Him, and ſo cannot know Him unleſs we can diſtinguiſh Him from an Angel or Dæmon or other Inviſible Power, nor Worſhip in Spirit and Truth, unleſs we can diſtinguiſh Theolatry from Angelolatry and Dæmonolatry, and Theology from Magick; nor when we are in diſtreſs can we know where to Pray to Him for deliverance, if we know not where to find him; and he being Inviſible is impoſſible to be found unleſs he is Omnipreſent; and if we Run to Temples, Tombs, Images, Idols, Oracles, we fall into the Power of Darkneſs, Dæmons, Magicians or Deceivers; And even the forementionʼd *Demonax* and *Cato*, and many other Heathen, themſelves will riſe up in Judgment againſt us. And ſeeing the whole Language of Theology is grown Anthorpomorphite, to deſcribe the Infinite Power in human ſhape, in human Apparition, or (what is worſe) in Brutiſh, of Limb or Dove, and confine him to a ſmall Throne in the *Cælum Empyræum*; from whence theſe miſchiefs would follow, That Saturn would make his Orb the Round Table of eating Children; *Jupiter* his, the *Seraglio* for his Rapes; *Mars* his, a *Spoliary*; *Sol* his, a Throne to aſſume Supreme Worſhip to himſelf; *Venus* hers, a Stews; *Mercury* his, a Den of Theives; *Luna* hers, a Nunnery for ſecret *Endymions*; The

Prince.

Prince of the Air, his a Forge of Cyclopſes to fire the World, and in the Bottom of all theſe the Pope his, an Infallible Chair, in Hell and Purgatory to Rule the Roaſt; Then would be no Government of theſe Variant and Contrariant Orbs; Then would the Doctrine of *Chriſt* be in vain, *Matth.* 10. 29. *Are not two Sparrows ſold for a Farthing? and one of them ſhall not fall on the ground without your Father.* Yea the Child himſelf, who is of more value than many Sparrows, And in the midſt of all theſe Enemies, how ſhall he cry for help to his Father, who is ſo many Millions of Miles, as is the New *Jeruſalem*, abſent from him? How doth his Body live ſo long? how ſhall his Soul after Death break through ſo many Regions and Legions, as ſtand in Battalia againſt her aſcent to ſo unimaginable an Height, (before ſhe can reach her Fathers Houſe) as a Mill-ſtone caſt thence with impetuous ſwiftneſs would not fall on Earth, or into the Sea, in Thouſands of years; unleſs it be intended every Soul which goes to Heaven muſt borrow *Mahomet's Elborach*? and that would not ſerve neither, if true what he Relates, That after he had Rid like a Witch by night through the Air, and was come to his laſt Stage, within Threeſcore Miles of Gods Palace where he dwelt, all the way was ſo Impaſſible with huge heaps of Froſt and Snow, that had he not been an hot Bodyed and hot Headed man, he had been utterly loſt and frozen to death before he had got through, and being got at length to the Preſence-Chamber, God living in the midſt of all that Snow put a cold Complement on him, for he clapt him on the ſhoulder (but it was not to Knight him) with his hand ſo cold, That it pierced him to the very Reins of his back, and caſt him all over into a Terrible ſhivering; and ſurely if it were poſſible for a Soul to paſs ſo long a Journey, through ſo many Thouſand Legions of Devils as are in the way to intercept her, and ſhe ſhould at length Recover faint and weary to the beginning of the Threeſcore Northern Miles of theſe Mountains of Froſt and Snow, being ſo naked as Souls uſe to be when they come in and go out of the World, and not Turbanted, Coated, Shooed as the Body of *Mahomet*: It is doubted by many, before ſhe gets half way through, ſhe muſt turn up her Heels if ſhe have any, much ſooner without Feathers, than a Robin doth with them in Winter. The Prieſts have brought their Soul to a fair paſs, and left her between fire and froſt, the Pope to burn one half, and the Turk to freez the other; neither do they ſhew a Remedy, nor, if the Soul is after death ſenſible of Good or Evil (as doubtleſs it is, or all Religion were in vain,) do they ſhew in all the Piles of their Theology, how ſo much as one Sparrow ſhall be ſecure from falling on the ground, or one Soul ſhall Injoy the Protection of Providence in the Center of ſo many Enemies as ſhe is incircled with, both in Life and after Death, who ſeek to take all the Good from her, and lay all the Evil on her

her they can. Alas Poor Soul! And why do they conceal from thee thy greateſt and only preſent and Eternal comfort, the Omnipreſence of God? Which if granted, none of this Evil can ever happen to thee. Thou art ever in his Embraces, he hears thee, he ſees thee, he is with thee, and as is ſayd, *Rom.* 8 38. *Neither death nor life, nor Angels nor Principalities, nor Powers, nor things preſent nor to come, nor height nor depth, nor any other Creature ſhall be able to ſeparate Us from the Love of God*; though as *Job* ſaith, 9. 11. *Lo he goeth by me and I ſee him not, he paſſeth on alſo but I perceive him not.* This neither Pope nor Turk dare deny, yet ſeek to bury in Oblivion and hide in Clouds of Darkneſs; forbidding all Diſputes of the Premiſſes, leaſt the truth of Concluſions, which muſt neceſſary follow, ſhake the Fundamentals of all their falſe Religions, and the vaſt gains accrue to them by the ſame.

Some of the gainful Practices, ariſing from ſuppreſſing the knowledg of the Omnipreſence of God, I have touch't before, and ſome Others I have added, as followeth: (1.) If the Light of the Omnipreſence ſhou'd ſhine through the World, they could not pretend and deceive with Magick in the name of Theology, with Necromancy under the name of Prayer at the Tombs of Saints, and to their bones and Reliques; they could not deceive with Witchcraft and Malice under the Name of Converſe with God and Good Angels; nor could they pretend to be Inſpirators without Miracle, if God is Omnipreſent in every Soul alike. Divers Popes have been by Hiſtories N ted to pretend Inſpiration, who have been great Magicians; and the Acting or Counterfeiting many Miracles by the *Romiſh* Saints, both beneficial and maleficial, are common in their Legends: and the Turks have as many as they; And ſeldom a Tyrant goes to Sea, but he will (if he can) have a Witch; ſo will they in their Land-Enterprizes have their prophets, which are the ſame. The *Tartar*, *Chineſe*, and *American* Prieſts are generally Magicians, and are Conſulted in all their Wars; ſo were the *Magi* of the *Perſians*, and *Brachmans* of the *Indians*, The *Druids* of the *Gauls* and *Brittons*, and many other Nations all Witches, who ſometimes by the help of the Devil foretold truly, and ſometimes falſly, ſucceſs of Wars, and ſhared with the Souldiers in the ſpoil. Now though amongſt the *Heathens* they were not aſhamed to worſhip Devils, whom they called gods, and it was the Profeſſed Divinity of *Polytheiſt* to Worſhip and Conſult Inferior Spirits, as well as the Supreme; yet amongſt Chriſtians, the Profeſſion being only to Worſhip the Supreme, if they Publiſh the Supreme to be Omnipreſent, they cannot pretend theſe Magical ſpirits to be God, or Good Angels, who confine themſelves only to ſome Perſons or Places, and do Malefices either to Nations or private Perſons; ſeeing if they Pray to God Omnipreſentially, they may be

be ſure to be heard for all Lawful and neceſſary Prayers, and the unlawful and Maleficious never to be granted by him; whereby the Prieſt will looſe all his Cuſtomers; for he that believeth God Omnipreſent will Pray alone, and not Imploy another to Pray for him, to avoid the foremention'd Dangers: Firſt becauſe, for ought he knows, the Prieſt who Prays for him may be a Magician. Secondly, He will not Pray to a Saint or Angel, nor bring offerings as the Prieſt would have him, becauſe, for ought he knows, this Saint or Angel may be a Dæmon Tranſformed into an Angel of Light, whereby he himſelf ſhould become a Magician, and incite this Dæmon to do Malefice.

(2) Such as believe the Omnipreſence will not only avoid Praying by a Prieſt, or to an Angel or Saint, by whom he pretends to have Power to obtain unlawful Prayers, and to do Malefice; but likewiſe to obtain Lawful Prayers and to Receive Benefits; becauſe the Granting of a Payer both by God or an Angel, or any Inviſible Power, is a Miracle, and the Prieſt takes Money for every Miracle or benefit ſucceeds by his Prayers of benefit to the Party for whom he Prays; whereby it will be manifeſt, that the ſucceſs of this Prayer is neither granted by God, nor a Good Angel; for God never ſells his Mercies for Money. And this was the Theology of *Simon Magus* a Magician, to think the Holy Ghoſt might be bought with Money; to which was made a Tart Anſwer, *Act.* 8. 20. *Peter ſaid unto him, Thy money periſh with thee, becauſe thou haſt thought that the Gift of God may be purchaſed with money.* And Chriſt gives expreſs Command to his Diſciples, Miſſionated by him with Power of Signs and Miracles, to do good to the People, *Matth.* 10. 7. *Go Preach, ſaying, The Kingdom of Heaven is at hand: Heal the ſick; cleanſe the Lepers; raiſe the dead; caſt out Devils: freely ye have received, freely give.* So *Elijah*, when he had cured *Naaman* of the Leproſy, took no Money of him, but puniſhed *Gehazi* for doing the ſame. 2 *Kings* 5. 20. And *Moſes*, when he did provide the Miracle of Manna, he did not ask any Money, or ſell it to thoſe who needed; for that had been to have deprived God of thanks for his own Gift. And *Petrus Quinqueranus* Relates, That when ſome *Neopolitan* Kings had incloſed a place with a Wall, which was of great Reſort of Poor, for the gathering of Manna there, that they might be Excluded from gathering, unleſs they paid a Tribute or Impoſt for the ſame, The Manna ſuddenly ceaſed, and fell no more; and when as the Doors were again ſet open, it fell as before. The Place was again the Second, Third and many times ſhut up, for Tryal; and ſtill when it was ſhut, the Manna fell not at all; but when open, as at firſt, it Continued to fall Plentifully. *Camerar. Centur.* 2. *cap.* 160. *p.* 401, 402, 403. It is not here affirmed, That if ſuch as are Preachers or Teach-

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ers of the Truth of God, receive neceſſary maintenance, for their ſtudy and pains in Executing the ſame (unleſs they pretend to Preach by Inſpiration) That their Doctrine is from Dæmons, and not from God; for the Labourer is worthy of his Hire, and theſe have not Received their Gift freely; but by long ſtudy and Paynes: but only this is affirmed, That if they pretend to any Extraordinary and Miraculous Gift from God, or Angels, as to be Mediators for Prayers, or to keep God under Lock and Key in a Temple, and Receive money for Executing the ſame, it is a Manifeſt ſign, they have neither their Gift from God, nor Good Angels, but from Dæmons. Some that have Writ of Witchcraft, ſay, That ſuch as Pray, though to God, for unlawful things, if they ſucceed and have Their Prayers granted, It is a Sign That they have made a Covenant with the Devil; for God never grants unlawful Prayers; therefore it muſt be the Devil, or Fortune. And that a Man may be a Witch, yet not know it. There being therefore two great Dangers to Pray by a Prieſt who takes money for his Prayers; firſt, That he Prays to Dæmons under the Name of God. Secondly, That he will make unlawful Prayers. *Quid non mortalia pectora cogit Auri ſacra fames? Flectere ſi nequeat ſuperos, Acheronta Movebit.* Should the Doctrine of the Omnipreſence ſpread, men would rather Pray to God as *Chriſt* Commands, in ſecret, and Omnipreſentially, to whom they may Pray and He Exacts no money of them, nor Compels their Conſciences to Pray in unlawful Forms, or for unlawful Matters, rather than Imploy ſo Chargeable and Dangerous a Mediator, who if God is in Perſon Omnipreſent, is not only uſeleſs, but hurtful; whereby he will loſe all his Money and Hire for his Prayers, and the Silver-Smiths of *Diana*, have their Trade utterly ſpoiled.

(3) Men would be induced to worſhip in ſecret, and Omnipreſentially, to avoid another Danger incident to Prayer by a Prieſt; for the Prayer by a Prieſt would be in Publick, in a Synagogue or Temple, which is lyable to a double danger, one of Dæmons, the other of Men; to neither of which any Modeſt or Prudent Petitioner deſires to have his Prayers known; not to Dæmons, becauſe he may have Errors and Imperfections in his Prayers, which if diſcovered only to God, He is ready to prevent thoſe Dangers he would draw on his own head, by his Raſh Petitions, and, like a Father in pity to his Child, to forgive them; whereas if Diſcovered to Dæmons, they, if not by God reſtrained, would be ready to grant him ſucceſs in all the Noxious things he asks, to Inſnare and Ruin him. Not to Men; firſt, becauſe for any to confeſs his private Sins, or Enumerate his private Wants, or Deſires in Publick, would but afford matter of Deriſion to the Heathens. Secondly, The malice of Men would be apt to wreſt all the Words,

though innocently intended, of his Prayers; sometimes to Heresie sometimes to Sedition, sometimes to Treason it self; and the same would kindle the hatred, and sometimes provoke the Rage of all Dissentients against him; As at *Vassy* in *France*, Fifteen hundred Protestants being assembled in a Church on a Sabbath day, to Pray, and hear the Word of God, the Duke of *Guise* suddenly Compassed the Church with Armed Souldiers, himself standing in the Door with a drawn Sword, and Cruelly sent his Souldiers, who killed all without Distinction of Age, or Sex. *Acts and Mon.*

(4) Granting the Omnipresence, Bishops could not pretend Power to Nul and Dissolve private Marriage, Consummated by Birth of a Child; nor separate those at whose Matrimonial Acts God was present as a Witness and Party, and thereby joined them, not to be put assunder by Man.

(5) Granting God to be Omnipresent, and present in the Internal Spirit and heart of Man, and sees and knows thereby all of his thoughts, all External Ceremonies of Worship are useless; yea the Compulsion to them is the highest Denial of his Internal presence, and all the Difference and Distinction taken away how to know the Worship of God, from the worship of Men, and the Counterfeit Worship from the True; for though to the worship of Men External Ceremonies are necessary, and the Internal thoughts of the Heart cannot be Express'd to Men, but by External acts of the Body, yet to God it is otherwise; for he being present in the Heart it self; it were as Impertinent that the Heart should be Compelled to Pray, or Express it's Intentions by External Ceremonies without the Body, as to Compel a Vassal, when his Prince is in the midst of the House with him, to throw his Petition out of the Window to be sent to him many Miles off, by the Priest who is in the outer Court. And as Compulsion to Worship by the outward Ceremonies of a Priest, or a Temple, is unnecessary, so is it the way to Compel an Hypocritical and Counterfeit Worship, contrary to the Command of Christ. *Joh.* 4, 21. Where he, talking with the Woman Concerning to the Two Places of Worship, the Temple of *Samaria*, and the Temple of *Jerusalem*, Saith, *Woman, believe me, the hour cometh when ye shall neither in this mountain, nor in Jerusalem worship the Father.* And vers. 23. *The hour cometh, and now is, when the true worshippers shall worship the Father in Spirit and Truth: for the Father seeketh such to worship him. God is a Spirit, and those that worship him, must worship him in Spirit and Truth.* To worship therefore in Spirit and Truth, is the Internal Worship of the heart, and not the External Ceremonies, which may be Compelled and Counterfeit, and

and if mixt with the Worſhip of God, are not directly to Worſhip God, but the Idol or the Prieſt; as for example, I ſhall inſtance the uſual Ceremonies of uncovering the Head, Bowing, and Kneeling, to which men are compel'd in Temples, as both Ancient and Modern *Pagan* Idolaters pretend the ſame diſtinction of Worſhip to and towards the Image, where thoſe or other Ceremonies are uſed, as do the Papiſts; and if the ſame ſhould be allowed, there could be no Idolatry committed in the World, and the Second Commandment were uſeleſs, and deſervedly by the Papiſt turn'd out of the Decalogue; for all Nations in the World, whether Civil or Barbarous, which uſe Idols or Images, yea the *Tartars*, *Africans*, *Indians*, and very *Americans* ſay, They Worſhip not the Idol, but their God in the Idol. But if once the Omnipreſence is believed, this Faith deſtroys all Ceremonies of Worſhip, both towards and to, and in, and ſhews the Worſhip of Spirit and Truth to be every way, and every where, and that Idols ought not to be brought into the Place, or mixt with the Divine Worſhip, they manifeſtly drawing the Honor of Bowing, Falling down, Kneeling, or the like, towards, or before them, pretended to God to be given themſelves; for which reaſon (it ſeems) *Joſephus lib.* 8. *cap.* 2. *de Antiq. Jud.* ſays, *Solomon* ſin'd and broke the Law in making Similitudes in the Temple, of Beaſts of Braſs, to underprop the Brazen Sea, and Lions to ſet unto his Throne, which are apt to be Converted to Idolatrous Uſes; and of the Act of *Hezekiah*, 2 *Kings* 18. 4. to take away thoſe External Ceremonies of Worſhip then in faſhion; for it is ſaid, *He removed the high Places, and brake the Images, and cut down the Groves, and brake in pieces the Brazen Serpent which* Moſes *had made: for unto thoſe days the Children of* Iſrael *did burn Incenſe to it; and he called it* Nehuſhtan. Yet here might it have been ſaid by the Idolatrous Prieſts, who made great gains of theſe Ceremonies of Bowing, Kneeling, and Falling down to thoſe Images, that they were very Ancient and Decent Ceremonies, and great Ornaments of the Worſhip of God; and they did not Bow, Kneel, Fall down, or offer Incenſe to the High Places, but God in them; yet here in the Judgment of *Hezekiah*, theſe external Ceremonies gave the Honour pretended to be given to God, to theſe Idols; and he therefore Aboliſhed them.

Compulſion to external Ceremonies, is to Worſhip the Idol and the Prieſt, and not God.

In the like manner do the Prieſts, now the Images are removed, yet Surrogate in their ſtead what Idols they can of Temples and Altars, aboliſhed by Chriſt, and under pretence of the Ornament and Decency of Worſhipping God, by Compulſion to thoſe External Ceremonies of the Body, to which it is impoſſible to compel the worſhip of the Spirit and Soul, draw to themſelves wholly that Divine Honour which they feign is given through theſe to God, as is eaſie to be ſeen, in every common Church or Temple, the People walk, talk, and place themſelves in what

posture they please, till the Priest appears and is heard in the Pew; then, as if the Apparition of a Deity spake, there is such shuffling away of Hats, and falling on knees, to receive an Absolution, which none but God can give, of their Sins; and as assoon as the Morning Service is ended, and the Priest got out of the Church all the Hats are again on, and not a man to be seen on his knees till the Priest again return in the Afternoon; then are they all again on their knees to pray, according to the foremention'd distinction, towards him, but not (as they said) to him, and receive his Benediction, which none is able to give but God; and these Ceremonies of falling on their knees towards the Priest, in those many Postures of Confessions of Sins, Penance, Absolution, and Benedictions were so scandalous to the Heathen, that when a Christian reproved one of them that he fell down before a dead Idol and worshipped it, he would answer, That the Christian fell on his knees before a worse living Idol, *Et quod Pontificis coleret Genitalia.* In the like manner was a Jesuit Recriminated, who reproved an *Indian* King of *Candeen*, that he fell down and worshipped his Paw-God, and answer'd, That He fell down and worshipped his Crucifix. To the same purpose have some Episcopal Protestants been Recriminated, who reproved Papists that they bowed and fell on their knees to the Host in the Mass, and answer'd, that they bowed and fell on their knees to the High Altar and the Bread received from it. So neither side can justifie, but Recriminate, which how weak Argumentation it is concerning the worship of God in Spirit and Truth, is easily understood. But to return to the first consideration; That the Priest is worshipped, and not God, by the Ceremonies of the Temple, appears, in regard it they taught that the People must put off their Hats or fall on their knees in token of Reverence to God, as being in the Temple Consecrated by the Bishop more than in another place, then must they teach them that they ought to perform the same Ceremonies when both Bishop and Priest are out, as well as in; and must be perpetually, as long as they are in the Church, seeing God is perpetually in it, and both Bishop and Priest must be perpetually uncovered when there, as well as the People, and as well before Service as after, and as well without the People as with them; but they neither teach nor practice any such matter, but only command uncovering, and kneeling to be towards themselves when present, therefore they give the whole Honour of these External Ceremonies to themselves, and not to God. So the Popes Missionary Priests breed up the poor *Americans*, in such Superstition and Slavery, as they worship the Priests for Gods; and if a Priest do but ride on a Journey through the street, they all as he passeth fall on their knees, with their hands Elevated towards him, praying him to forgive their Sins, and give them their Benediction; which the Priest very gravely doth, making many Mumpsimusses with his Mouth,

and

and Croſſes in the Air with his finger towards them, and they for the ſame bring him plenty of Proviſion and Oblations to his Lodging, where he Inns, The Arch-Biſhop of *Moſcho*, reputed the *Greek* Pope or chief Patriarch, when he Conſecrates the River there for Baptiſm, which is once a Year, he Rides in great State, in moſt Rich and Gorgeous Robes, carrying the Sacrament in his Lap, the Emperour himſelf leading his Horſe by the Bridle, and many perſons caſting before him on the ground moſt Rich Garments, to be tramp'ed on by the proud Palfrey, and when he hath paſſed over a parcel ſtill fetching thoſe who are left behind, and throwing them again before, leſt the feet of his Holy Horſe ſhould touch the Earth, whoſe Maſter commands the Heaven. Some have thought by theſe Ceremonies the Horſe is more honour'd than the Emperour, the Lap than the Horſe, the Sacrament than God, and the Biſhop than all. The *Latine* Pope hath had a Crotchet to wear the Croſs on his Pantofle when he admits to the Honour of kiſſing his Toe, yet none doubts but he aims more at the Honour of his Toe, though a crabbed one, than of the Croſs. To the Emperour who performed this Servile Homage, ſaying in Extenuation of his Diſhonour, *Non tibi ſed Petro*, the Pope replied, *Et mihi & Petro*. Not only the *Babylonian* Prieſts of *Bell*, but of all Nations in the World (who could obtrude on the People the Ceremonies of Sacrifice) have under pretence of feeding the Noſes or the Mouths of their Gods, fed their own Bellies, and not their Gods. But the Doctrine of the Omnipreſence deſtroys all theſe Ceremonies of Sacrifices, Incenſe, Burnt-offerings, Images, Hoſtes, Maſſes, High-Altars, Temples, and Oblations by Prieſts; for if God is preſent in the Houſe, and at the Table of the owner, were it poſſible he could be hungry, or deſire Meat and Drink, he could, as many great Princes have done from their meaneſt ſubject, more conveniently take a Meal from a Thouſand Tables whereſoever he likes beſt, than the Prieſt to gather it for him in his Alms-basket at the Temple, and there to eat it himſelf; and ſay to the Prieſt as is ſaid, *Pſal.* 50. 12. *If I were hungry, I would not tell thee, for the World is mine, and the fulneſs thereof. Will I eat the fleſh of Bulls, or drink the blood of Goats? Offer unto God thankſgiving, and pay thy Vows unto the moſt High. And call upon me in the day of trouble, and I will deliver thee, and thou ſhalt glorifie me.* Were God likewiſe tolerated to be worſhipped as Chriſt commands, *Omnipreſentially*, in Spirit and Truth, then could there be no compulſion to the Ceremonies of Forms of Prayer, Forms of Veſtments, Forms of Songs, Forms of Muſick; for Forms of Prayer and other Forms of Worſhip in things indifferent, if made compulſive by Penalty, became Ceremonies, and deſtructive to the Worſhip of God in Spirit and Truth; and compulſive they cannot be made unleſs the Ceremony of the place of Worſhip be made compulſive. But if they are only Directive.

Forms of Prayer Compulſive, are Ceremonies, but not Directive.

Directive and without Penalties, as the Form of the Lords Prayer, left by Christ, who made it not Penal to miss a word, or syllable, or a letter in the Use of the same, then are they no Ceremonies, nor Ceremonial Laws, but Favours and Adminicles to help and direct, and not to punish the Weak who need them; if Popes and Bishops therefore should not smother the knowledg of Gods Omnipresence, then must they allow that God is present in the heart of every one who Prays, as well as in every other place, and being there, as *Job* saith, 42. 2. *I know thou canst do every thing, and that no thought can be withholden from thee.* And it is said, *Psal.* 7. 9. *The Righteous God trieth the Hearts and Reins.* And *Psal.* 94. 11. *The Lord knoweth the thoughts of man.* And if so, they need neither carry nor send their Prayers to a Pope, Bishop, or Priest to offer them to God, in a Temple or at the Altar; but he may present them to God himself, and in a way more pleasing to him, on his own Altar of a broken heart, which way of Worship in the heart would utterly destroy their great Office they usurp, of being Masters of the External Ceremonies of Divine Worship, which brings them in infinite Riches, and likewise an Idolatrous Worship and Honour to Exalt themselves above all that is called God.

(6.) If Prayers might be made to God in the heart of man, or as Christ directs in the Closet, as Omnipresent, then would the Priest lose his great gains of the Post-Office to Heaven, for sending Prayers though not by Letter or Writing, yet (which is as good) by word of Mouth, or better, if the Letters should chance to be lost, or Spies for Intelligence break them open by the way. When Prayers are brought to the Priest, to be sent so high and so far for the Petitioner, he will send them by some Angel, who is the swifter, or some Saint who is the slower and surer to carry them the first Stage, then He delivers the Message to our Lady of *Loretto* (if she be not below at her Chappel) to carry them another Stage, and to deliver them to her Son, who is to make the next deliverance of them to God, which way of Posting Prayers so far is very costly, and dangerous, and many times Petitioners get no Returns as long as they live, unless when intercepted by the Prince of the Air, and he grants their wicked Petitions with a Vengeance; all which cost and mischief had been prevented, if the Petitioner in person had, as Christ bids him, offer'd his Prayer to God in person in his Closet.

(7.) The Priests could not put God into a Wafer or piece of Bread, and set him on an Altar, or carry him about in a Box; they could not lock him up in a Temple, and carry the Keys at their Girdle; by which they would lose excessive gains.

(8.) There would be no more Pilgrimages to *Mecha*, or *Jerusalem*, *Rome*, *Loretto*, *Compostella*, and a multitude of other Places, which would lose them vast gains.

(9.) They

(9.) They would loſe the gains of Praying to Saints and Angels; for they who believe God only to be Omnipreſent, and the *Ubi's* of Saints and Angels to be unknown, and uncertain when, and whether in Temples or no; would rather pray to God only, than ſuch as they knew not where or when to find, and might therefore be mocked, as *Elijah*, 1 *Kings* 18. 27. *mocked* Baals *Prophets, and ſaid, Cry aloud, for he is a God, either he is talking, or he is purſuing, or he is in a Journey, or peradventure he ſleepeth, and muſt be awaked.*

(10.) They would loſe the gains of all Sanctuaries, Aſylums, and Horns of the Altar; for if God is every where, why ſhould Malefactors have more privilege there than every where? whereby neither *Cain* by Land, nor *Jonah* by Sea, could flie the Preſence of the Lord, and the ſame is no Protection, but a Puniſhment to the Wicked.

(11.) There would be no more buying or hireing places of Burial in Chancels, Churches, Church-yards, or other Conſecrated ground, by ſuch as believed God Omnipreſent; whereby a great Revenue would likewiſe be loſt to Popiſh Eccleſiaſticks.

All which recited matters, and the forementiou'd Mediator, Confeſſor, Penance, and Pardon, Offices, and divers others, conduce infinitely to the gain of Papal and Epiſcopal Prieſts, and the Pride and Power of the Kingdom of Anti-Chriſt; which muſt be inevitably ruin'd, if the Doctrine of the Omnipreſence were but duly Preached and Taught, which indeed is the Depth of all Philoſophy, and the Height of all Divinity, and the moſt poſſible way of underſtanding the Divine Precepts of Chriſt, of worſhipping God in Spirit and Truth.

A Poem on the Omnipreſential Worſhip of God.

NO other God I Love or Fear;
But who I ſee is every where:
If on the Hills I feed my Sheep,
Their Paſture there he Green doth keep:
If in the Dale my Cows I milk,
He makes their Teats as ſoft as Silk;
And is he not there where I Plow?
Who more Returns then I did Sow.
If on the Wall I Prune a Vine,
He muſt be there who giveth Wine.
I drink the Wine of Ten Years old,
He makes me then his Poet bold.
In *Eden's* Fruit (what joy is this!)
I taſt a Thouſand times he is:

I ſip

I sip the *Nectar* of the *Bee*,
And find none there is sweet but he:
Of *Strawberries* I dress a Bed,
He's there, none else could make them Red.
Yon *Brook* (hark!) tells with purling sound,
From Sea who brings it under ground.
A little Seed on Earth I spring,
He there doth Heavenly Flowers bring:
His Works in Beauty all appear,
I'm sick with Love of him who's there:
In Rosie Bow'r with Lute I sit,
His Voice doth Ravish me from it.
The hour I ask, and Dial view,
He must be there who tells me true:
If to my Study I then pass,
He brings me light there through the glass:
If to a lawful War I go,
He's there to fight against the Foe:
I watch in Frost, and Moon-shine cold;
From killing me he doth it hold:
If to the fire I turn to warm,
He's there, such Fury else would harm.
To Woods I walk with wandring Eyes,
He's there who mounts them to the Skies:
At Sea the Tide learns me to know
'Tis he there makes the Ebb and Flow:
Bright *Cynthia* shews next who her guids,
Where she in Silver Chariot Rides:
In Darkness, Sounds do make me hear
He is in them, who made the Ear:
I look up to the Stars above,
And see he's there, who doth them move:
I take a Wife, and go to Bed,
He Marries us who bids us Wed:
A Child is born, he gave it Life,
And not the Husband or the Wife:
In sweetest Sleep my Rest I take,
Eternal, did he not me wake:
I die, his Mercy is so near,
And he himself, I cannot fear.
Then Shepherds all upon the Rocks
Pray, and Praise him 'mongst your Flocks,

And

And let your Pipes on every Hill
The Organs be the Air to fill:
You who Carouſe, in pleaſant Bowers,
Ambroſian Milk that's made of Flowers,
There when you hear the Cows to Low,
Unto the God who fed you bow.
Let Husbandmen who Plow the Field,
Thanks for a fruitful Crop there yield;
And for the Seed they caſt away,
Another Reſurrection Pray.
You who behold the Rubie Wine
In curious Cryſtal Glaſſes ſhine,
And drink your fill, there crown'd with Bays,
Indite high Hymns unto his Praiſe:
Ye Poets, why ſit you ſo ſad?
In holy Furies turn ye mad,
He'l mount your Souls in Extaſies,
Unto the Joys above the Skies:
Fruits of ſo many Taſts and Hues,
Delicious Whites, Reds, Yellows, Blues.
Who Banquet on, in the ſame Place
Return for every one a Grace:
Thou who haſt found the Honey-Comb
In Wilderneſs, though far from home;
Go ſuck Him there in ſuch a Feaſt,
As Child doth Mother from the Breaſt.
The little Berries on a Bent,
Who file before they ſhall be ſpent,
You as in Golden Age then may
Number no other Beads to pray.
The Cryſtal Springs and Running Rills,
Along the Banks of Daffadils,
And Silver-ſhallows which do creep,
Shews he them brings from Mercies deep:
Who Flowers gather in the Meads,
Praiſe him with Garlands on your Heads,
Who gives ſuch Flow'rs unto the Clown,
As *Ceſar* hath not in his Crown.
If Lightnings ſhot from Beauties Eye,
Melt thine to Tears, and make thee ſigh.
Adore the Beauty none do ſee,
Thou no Idolater ſhalt be:

I sip the *Nectar* of the *Bee*,
And find none there is sweet but he:
Of *Strawberries* I dress a Bed,
He's there, none else could make them Red.
Yon *Brook* (hark!) tells with purling sound,
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A little Seed on Earth I spring,
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He must be there who tells me true:
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He brings me light there through the glass:
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He's there to fight against the Foe:
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He Marries us who bids us Wed:
A Child is born, he gave it Life,
And not the Husband or the Wife:
In sweetest Sleep my Rest I take,
Eternal, did he not me wake:
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Praiſe him with Garlands on your Heads,
Who gives ſuch Flow'rs unto the Clown,
As *Ceſar* hath not in his Crown.
If Lightnings ſhot from Beauties Eye,
Melt thine to Tears, and make thee ſigh.
Adore the Beauty none do ſee,
Thou no Idolater ſhalt be:

Who hear the Birds, with Thousand Notes,
Praise him from pretty Bills and Throats:
There let your Voices join in Quire
With Instruments of Wind and Wire.
On Dial look, and there him praise,
Who shews to number out thy Days;
Who light and shade so true makes run,
Is on the Dial and the Sun:
No longer in thy Study look,
To search for God Chapter or Book;
For whereso'ever thou dost pass,
He writes himself on every grass:
Ye Valours in defence of Right,
Who for the King and Country fight,
Your Souls to Heaven, where e'r you die,
Shall without Church or Steeple flie:
How Water turns to Gems of Ice,
And they to water, who so wise
To shew? But he is there we find,
Whose Power alone can loose and bind.
You who sit by the Fire side,
To Pray, you need not Run or Ride,
For who dwells in Eternal Light,
Is likewise in the Fire bright.
Go Pray in yonder Wood or Grove,
For there appears the God of Love,
Except the same is Consecrate
Unto some Goddess or her Mate:
Soldiers at Sea, who doth it tame
In Floating Castles, praise his name;
Let Trumpets sound it to the shore,
And with them let your Canon Rore;
If *Phœbe* Fair shall on you peep,
When she steals water from the Deep;
Though such a Beauty ne're was seen,
Say she's his Hand-maid, not his Queen:
You who in Nights Black shades do stray,
In fear there to him humbly Pray,
In Darkness which doth Cloud the Skie,
He Dreadful is in Majesty.
The Stars that Roll'd are in their Round,
By him above, and under ground,

Shew

Shew he is there in Might and Power
Who will not let them Reſt an hour.
Bride-grooms and Brides ſo Freſh and Trim,
Each other Worſhip not, but him
Who joins you both in ſuch a Fate,
As none but he can ſeparate.
Mothers Praiſe him, who are Devout,
Who heard you when you Cried out,
And made forget before the Morn
Your Sorrows, when a Son was born:
He's in thy Bed, though thou doeſt ſleep,
True time thy Pulſes who makes keep.
All the whole Day then ſeek a Theam
To Praiſe him there, though in a Dream.
When Death the Body turns to Fame,
And Soul to Eſſence whence it came,
Oh happy Soul! thou canſt not miſs
Thy God, for every where he is.
Ye Idol-Prieſts who have begun
Your Temple build, ſhall hold the Sun;
And you great Neptune who adore,
Build one ſhall hold both Sea and Shore;
To *Æolus* who make your Prayer
Another build, ſhall hold the Air;
At *Venus* ſhrine then you who cry,
Build one holds *Venus* in the Skie;
And then with Millions of your hands
Build one holds him who theſe commands:
The God who cannot be confin'd,
The God of Love, who is not blind;
When this you do, and none derides,
Wee'l to your Altars bring our Brides,
But firſt before we enter in,
Your Temple you ſhall clear from ſin,
The Canons of ſo many Popes,
And of the Mitres and the Copes,
Contrary to the Law of God
Whip thence, as Chriſt did with a Rod;
Then overturn the Tables next
Of Money-changers, which have vext
Loves Liberty, who was born free,
With Bonds, and Bills, and Uſurie;

Then cast out Pride which doth bewitch,
And Poor Divorceth from the Rich:
Vertue and Beauty are the Gems,
Excelling those of Diadems.
Then Covetousness expel,
The Idol foul which came from Hell;
Portions and Jointures we'l have none,
But every one shall keep his own,
Nor Courtesie shall be so small,
Of Lands and Money to take all,
And Rob the Woman of her Goods,
Leaving her scarce for Scarfs and Hoods;
When 'tis too late, she sees and grieves,
The Temple is a Den of Thieves,
None there shall take anothers Brats
By Bishops false Certificates,
No *Bramyn* of an *Indian* King
Shall there Pollute the Royal Spring,
Cardinal Confessor there none
Shall shrieve a Queen upon a Throne,
No, nor shall their Intails defiled
Make Faithless Wife, or Rebel Child;
We'l run no more to *Romish* Sees,
But we will Marry without Fees:
Why do you then Gods Ordinance
After your Pipes to Church make Dance,
To buy for Money what's Divine,
And God inclose in Silver-shrine?
Why do you then so slylie steal
A Sacrifice of Blood and Meal,
And thither drive, on pain of Curse
Your foolish Guests to pick their Purse,
And your Bread-God on Altar lay,
And him inclose with Walls to Pray?
Know, who is the Almighty one,
Altar or Temple he hath none.

(15.) *It caused the bloody Sacrifices of Virgins, Children, and* Indian *Wives.*

If *Iphigenia* had not been got to the Altar on pretence to be Married, she could not have been Murder'd.

Religio peperit Scelerosa atq; impia facta:
Aulide quo pacto Triviai Virginis aram,
Iphianassai *turparunt Sanguine fædè,*
Ductores Danaûm delecti prima virorum:
Cui simul infula virgineos Circumdata Comptus,
Ex utraq; pari malarum parte profusa est;
Et mœstum simul ante aras adstare parentem
Sensit, & hunc propter ferrum Cœlare ministros;
Aspectúq; suo lacrymas effundere cives;
Muta metu, terram genibus Summissa petebat.
Nec miseræ prodesse in tali tempore quibat,
Quòd patrio princeps Donarat nomine Regem:
Nam sublata virûm manibus, tremebundáq; ad aras
Deducta est, non ut solemni more sacrorum
Perfecta, posset claro Comitari hymenæo;
Sed casta incestè nubendi tempore in ipso
Hostia Coniceret mactatu mœsta Parentis:
Exitus ut Classi felix faustúsq; daretur.
Tantum Religio potuit suadere malorum.

Religion hatch'd hath damn'd Impieties:
This the *Greek* Chiefs at *Aulis* made Surprize
Poor *Iphigenia*, by a wicked wile,
And *Trivia's* Altar with her Blood defile.
The Fillet which did bind her Virgin Head,
Upon each Cheek hung down dishevelled,
Her Father then sad to stand by she Eyed,
And Priests from her their Bloody Knives to hide,
Upon her Knees she fell down mute with Fears,
And saw the People round her shedding Tears,
Nor with the King did help her thus appall'd,
That she a Princess first him Father call'd;
For, took by force of Men, she's trembling brought
Unto the Fiery Altar, not as ought
To have been done, a [illegible]e to Consecrate,
But to Pollute her with a Bloody Fate,

Then

Then her fell Father in her lovely Prime
When he of *Hymens* Joys promiss'd the time,
Kills her in Sacrifice, to get a Wind,
And a good Passage for his Shipping find.
Thus Blind Religion which doth nothing know,
Yet so much Evil could persuade to do.

The wickedness of the same Fact, *Horace* likewise describes. *lib. Serm.* 2. *Sat.* 3. In a Dialogue, between a *Rustick* and *Agamemnon.*

R. *Nequis humasse velit Ajacem Atrida, vetas cur?*
A. *Rex sum.* R. *Nil ultra quæro plebeius.* A. *Et æquam*
Rem imperito: ac si cui videor non justus, inulto
Dicere quæ sentit permitto. R. *Maxime Regum*
Dii tibi dent captâ classem reducere Trojâ
Ergo consulere, & mox respondere licebit?
A. *Consule.* R. *Cur* Ajax *heros, ab Achille secundus,*
Putrescit, toties servatis clarus Achivis?
Gaudeat ut populus Priami, Priamusque inhumato
Per quem tot juvenes patrio caruere sepulchro?
A. *Mille ovium insanus morti dedit, inclytum Ulyssem,*
Et Menelaum una mecum se occidere clamans.
R. *Tu cum pro vitula statuis dulcem Aulide natam*
Ante aras, spargisque mola caput improbe salsa,
Rectum animi servas? A. *Quorsum?* R. *Insanus quid enim Ajax*
Fecit, cum stravit ferro pecus? abstinuit vim
Uxore & nato, mala multa precatus Atridis,
Non ille aut Teucrum, aut ipsum violavit Ulyssem.
A. *Verum ego ut hærentes adverso littore naves*
Eriperem, prudens placavi sanguine Divos.
R. *Nempe tuo furiose.* A. *Meo, sed non furiosus.*
R. *Qui species alias veri, scelerisque tumultu*
Permistas caplet, commotus habebitur: atq;
Stultitiane erret nihilum distabit, an ira.
Ajax *immeritos dum occidit desipit agnos:*
Quum prudens scelus ob titulos admittis inanes
Stas animo? & purum est vitio tibi cum tumidum est cor?
Siquis lectica nitidum gestare amet agnam,
Huic vestem ut gnatæ, paret ancillas, paret aurum;
Rufam aut pusillam appellet: fortique marito
Destinet uxorem, interdicto huic omne adimit jus
Prætor, & ad sanos abeat tu[illegible] propinquos.

Quid?

Quid? ſiquis gnatum pro mutâ devovet Agna
Integer eſt animi? ne dixeris. Ergo ubi prava
Stultitia, hic ſumma eſt inſania.

Ruſticus, Agamemnon.

R. Atrides, Why is it forbid by thee
To bury *Ajax*? *A.* I am King. *R.* So be.
I a *Plebeian* dare no more enquire.
A. But juſt I am, and if thou doeſt deſire
To ſhew thou think'ſt not ſo, ſpeak out thy mind,
I give thee leave. *R.* Great King, ſo mai'ſt thou find
The gods propitious, from Conquer'd Troy,
Thy gallant Fleet to return home with joy
May I then ask, and unto what thou ſay'ſt
Reply again, with thy good favor? *A.* may'ſt.
R. Why doth the *Hero Ajax*, the Renownd
Achille's Second rot then above Ground,
Who ſaved ſo many Greeks? Is it, to make
Pryam and *Pryam's* People joy to take,
That he by whom their own ſo many have
Loſt Sepulchres, himſelf ſhould loſe a Grave?
A. The Mad man kill'd a Thouſand Sheep, and cry
He did, each *Menelaus* was, or I,
Or brave *Ulyſſes*. *R.* Wicked Man, doſt thou,
Thine own ſweet Daughter to the Altars vow?
And didſt thou Butcher her in the Calf's ſtead,
At *Aulis*, crumbling Salt Cake on her Head?
And think'ſt thy ſelf more in thy Wits than he?
A. Why not? *R.* be pleaſed but to hear and ſee;
For what did *Ajax*, while he was ſo mad,
To kill the Sheep (as thou didſt) half ſo b d?
He did both from his Wife, and Son abſtain,
And only the *Atride* curſt in vain;
He neither *Teucer*, nor *Ulyſſes* ſlew.
A. But, that I was both wiſe and godly, ſhew
I will to thee; for, to get off my Fleet
Which ſtuck upon the Sands, I thought it meet,
Their ſafe return to ſpeed through the rough Seas,
The angry gods with blood thus to appeaſe.
R. 'Twas with thine own blood Mad man. *A.* true, 'twas ſo,
But that I was not Mad, this lets thee know.

R. Whoſe:

R. Whose thoughts Tumultuous made by Wickedness,
Takes False for True, is mad, and he no less
Who doth by Folly err, as who by Rage.
Was *Ajax* Mad who did in Fight ingage
To kill Poor Lambs; and thou Godly and Wise,
Who *Iphigenia* kill'st in Sacrifice?
And those Fair Titles from a Crime so black
As thy Poor Daughter 'twas to kill, dost take?
Should one in Coach a Lamb have with him ride,
And for it Cloaths, Money and Maids provide,
And think't his Daughter, Miss and Madam too
Call it, and Husband stout bring it, to woe.
Would not the Prætor grant him for a Fool?
And what if one his Daughters at the Schole,
Should think a Lamb in Fold by like mistake,
And her Devoutly to the Altars take,
And think by Faith he that mute Creatures note
Hears, when he cuts his Shrieking Daughters throat?
Is he in his right mind? the other is
A Petty Folly, wicked Madness this.

Who think their God a Lamb, or that His Will
Was, they himself should on his Altar kill,
And offer to Himself; how Mad are they,
Let some New Poet in a Satyr say.

Godw. Jew. Ant. 141. Conceiveth *Moloch*, to whom Children were Sacrificed, to be the same Idol with *Baal* then, *P.* 152. He Conceiveth *Baal Peor*, so called from *Peor* the Hill on which his Temple stood, to be the same Idol with *Priapus*: so doth *Cornelius Agrippa*, call *Priapus*, *Baal Phegor*; It is before shewn, That *Priapus* was the first who got Women and Men to be joined together by a Priest in his Temple; if *Priapus* therefore was *Baal*, and *Baal Moloch* to whom Children were Sacrificed: then ('tis more than probable) the same Idol, who Married in Temples, as he by this got the Jurisdiction of Marriage, so by the Jurisdiction of Marriage, he got into his Fiery hands the Jurisdiction of the Fruits of Marriage young Children; and like a true unclean Devil, Defiled his Temple and Altar, not only with Lust, but with Blood; and so this Custom of Marrying by Priests in Temples in as many Nations (which were the greatest part) of the World, which it past through; carryed likewise, the Barbarous Cruelty of Sacrificing, such Children of such Marriages, as the Priest required what Children he pleased, to be Sacrificed,

crificed, and as the Scripture Expreſſeth, to Devils; I ſhall for brevity, only Cite one Poet concerning this wicked Cuſtome.

Mos fuit in Populis quos condidit advena Dido,
Poſcere cæde Deos veniam, ac flagrantibus aris
(Infandum dictu.) parvos imponere natos.
Silius.

The People who by *Dido* founded were,
Did Pray to Gods with Blood, without a Tear;
And horribly on Flaming Altars burn,
Their little Babes, yet for them never mourn.

Ille ſuis Divis mos Sacrificare puellos,
Ennius.

The Cruel Cuſtome of the *Indian* Wives, burning themſelves with their Husbands, grew from the Juriſdiction the Prieſt gained over them by ſuch *Priabeian* Maraiage by a Prieſt in a Temple, and by the profit he made by the ſame Burning or wicked Sacrifice of themſelves. Which Cuſtome *Propertius* thus Deſcribes:

Jamque ubi mortifero Jacta eſt fax ultima Letho,
Uxorum fuſis ſtat pia turba comis,
Et certamen habent Lethi quæ prima ſequatur,
Conjugium Pudor eſt non licuiſſe mori.
Ardent victrices, & flammæ pectora præbent,
Imponuntque ſuis ora perufta viris. Proper. l. 3. *Eleg.* 12.

When the laſt Brand doth light Deaths bed of Flames,
With Hair diſheveld ſtand the Pious Dames,
And ſtrive who firſt ſhall with her Husband lye;
Oh, ſhame they think if hinder'd then to dye.
Victorious they with Breaſts and Mouths on fire,
Kiſs their old Loves burning with new Deſire.

The *Indian* Prieſts, from whom this Fiery zeal, Superſtition and Miſchief came, uſually attend the Woman at this Fatal Solemnity of her new marriage to her Husband in another World, with which he Deludes her aſſuredly to believe follows of courſe, if ſhe burns her ſelf, and goes with him. But firſt ſhe muſt go to the River and be Baptized with Water, for

the waſhing away of her Sins, and then be Baptized in this laſt fire, where he promiſeth her their Holy Spirit and god Ram will appear to her in a Viſion in the midſt of the Flames, and be her Comforter: you cannot think a Prieſt will take all this pain to Murder his whole Pariſh of Women if he can, without a Fee, though without a Tear; for, beſides his Ordinary fees, who ſhould the Poor Deluded Martyreſs or Martyreſſes (for many times the *Indians*, their Laws allowing Plurality of Wives, have Ten or a Dozen, or if a Prince they may amount to a hundred) the Husband being dead, make Executor and Overſeer of all their Goods they leave behind, to beſtow them according to his direction, *pur le Alme de defunct*, for the Benefit of the Souls of them he Murder'd, But the Prieſt who ſo kindly helpt to diſpatch them? Beſides, he hath for a further ſmall gratuity for his Pains, all the Bracelets, Pendants, Rings, and Jewels of Gold or Silver, which the Women ware, who came thus to Sacrifice themſelves; for they are Adorned moſt Richly, as they were on their Wedding Day; And beſides, other good Women throw into their Laps ſome Letters, ſome Preſents, ſome Money, and Deſire her to Deliver them to their Mother, or Brother, or other Kinſman or Friend, gone before them into the other World, all which are burnt with her; and when that is done, the Prieſt Rakes the Aſhes, where, what a Batch hath he of all that is Incombuſtible of Rings, Bracelets, Gold, Silver, Jewels, Copper, Braſs! Eſpecially where there are many Wives who burn together, and belonging to great Perſons: theſe ſo Sacred Reliques of theſe Saints belong only to the Prieſt, to his great gain. *Taverenr. 2. Part.* 170. *& Lynſchotten.*

(16.) It layes Puniſhment on Lawful Childbirths, and deſtroys Millions of Infants.

The cauſe of Penance in a White Sheet is only for the gains of the Biſhop.

The Puniſhment of which, is Impoſed on the Childbirths of every Woman, who hath not firſt been before a Prieſt in a Temple, and told all the Boys in the Pariſh, That ſhe hath a mind to lye with a Man, is to be Expoſed to Publick ſhame in a White Sheet, in the ſame Temple; and the Boys aforeſaid, to make Mops and Mowes at her, though they might better be Imployed in ſaying their Prayers after the Prieſt; the Perſons on whom this ſhame is to be Impoſed, is Principally the Mother of the Child, but reflected by participation on her Parents, Family, Kindred, and her Innocent Child it ſelf. The Final Cauſe why this Shame is Impoſed, is, that the Biſhop may inforce her to give him what Commutation Money he pleaſeth to Demand, for his Remiſſion of this Penance, and Pardon of her Sins, and that he may have Power to ſet what-

what Taxes he pleaſeth on Gods Ordinance of Marriage, and all Acts incident to the ſame, which ought to be free, and thereby ſet to Hire and Sale, all Women Lawful and Unlawful; and the Succeſſions not only to all private Patrimonies, but Kingdoms, and thereby fill his Cheſts with Gold and Silver.

The Sin or Offence, for which the Puniſhment is Impoſed, is Childbearing and nothing elſe, whatever is pretended; which is proved by theſe Reaſons:

(1.) If he ſay, That he puniſheth the Mother for diſobedience to his Eccleſiaſtical Laws and Canons, in not Publiſhing her Intention to Marry, to the Prieſt in the Temple, and the Boys in the Pariſh, and, what is the bottom of the Buſineſs, not paying him his Fees for Publication according to the Canons. This is eaſily Anſwered, by asking who made him a Legiſlator, and Canon-Maker, over a Free People and their Children? This already is before proved, That neither Eccleſiaſtical nor Temporal Law can be made, nor Tax impoſed on Marriage, or any thing elſe, without the Aſſent of the Houſe of Commons, and that was never given to any Papal or Epiſcopal Laws or Canons; as hath been already proved. And as hath likewiſe been proved, All Eccleſiaſtical Laws and Canons made by any Popes or Biſhops, Councils or Synods, from the beginning of the World to theſe preſents; in regard they never had the Aſſent of the Houſe of Commons in Parliament, are utterly Void and Null, to bind the People or their Poſterity. So there being not ſo much as a Law of Man in *England* Prohibiting Marriage, without a Prieſt and Temple, under the Penalty of ſtanding in a White Sheet; and there being no Law, there can be no Offence. Beſides, if there were ſuch a Law, it is already before ſhewn that all Laws Prohibiting Marriage (Except by a Prieſt in a Temple) are the Doctrine of Dæmons, and came Originally from Dæmons and the Prieſts of *Priapus* and *Venus*, and Contrary to the Moral Law of God and Nature; the Biſhop hath therefore no pretence to Puniſh the Woman for that.

No Law in *England* for ſtanding in a White Sheet.

(2.) There are no other Offences in Bearing a Child which a Woman can commit, but breach of Contract, Inceſt, Fornication or Adultery. As to breach of Contract and Inceſt, the Biſhop puniſheth Perſons Free, and not Prohibited by any Law of God to Marry: As to Fornication and Adultery, the firſt Offence cannot (as hath already been ſhewn) be Committed without Polyandry in the Woman, and the ſecond without Polygynecy in the Man; But the Biſhop puniſheth her who bears a Child, though the Father and Mother were no way Prohibited to Marry by any Law of God or Man, and they were at the time of Begetting the Child both Virgins, and neither Guilty of Polyandry

or Polygynecy, and so still continue Chast and Constant one to another: The Bishop therefore punishing such a Woman, doth punish her for Child-Bearing, or for nothing.

(3.) There is no Probation, by two or more Witnesses, of any Offence but Child bearing; and Probation by Compulsion of the Woman to self-Accusation, or by Compulsion of Canonical Purgation are unlawful. The Bishop therefore punishing such a Woman, if he punish her not for Child-bearing only, he punisheth her for Facts whereof he hath no Lawful Probation.

It being therefore proved, That the Bishop punisheth Lawful Child-bearing; It appears further, That he punisheth the Lawful more than the Unlawful; for such Women as are common in Stews or Brothels seldom bear a Child, as hath been shewen before, and such Women as are Married to Husbands (and therefore can only be Guilty of Adultery) if the Husband be within the Four Seas of the time of Begetting the Children on their Wives by Adulterers, it hath been shewen already, That *Littleton* and *Coke*, will by Fiction have it be believed that these Adulterous Children were got by the absent Husband, And that *Probatio non admittitur in Contrarium*, whereby Marriage by a Priest in a Temple is made a Sanctuary for Adultereſſes, and for Adulterous Child-bearing they are Exempt from punishment, but the Poor Lawful Child-bearing Woman, against whom there is neither Fact nor Probation of any Crime to be shewen, is the Chief Subject of the Bishops punishment: a Fact so Barbarous, as not to be parallel'd in the Example of *Turks*, *Tartars*, *Americans*, or any *Ethnick* Nation; Except *Garamantes*, who have a wicked Custom, that if any Married Woman Procreate more than three Children, she shall be Divorced from her Husband, because a Multitude of Children caused Men to have Covetous hearts; and besides the Divorce of the Mother, such Supernumerary Children were to be slain before the Parents eyes. But Bishops are worse than the *Garamantes*, for they punish though but one Child-bearing, whereas the other punish'd not till after Three, and exercise those Inhumanities for their Gain against Child-Bearing Women, which the Scripture Prohibits to be Exercised to the very Brutes, *Deuter.* 22. 6. *If a Birds nest chance to be before thee in the way in any Tree, or on the Ground, whether they be young ones, or Eggs, and the Dam sitting upon the Young, or upon the Eggs, thou shalt not take the Dam with the Young. But thou shalt in any wise let the Dam go, and take the Young to thee, that it may be well with thee, and that thou mayest prolong thy days.* The Bird is not any wise to be punished for this Natural Piety to her Young, but to be set at Liberty and let go, and that they may Defile their Marriages by the

Example

Example of the *Garamantes* with Blood, as they do by Example of *Priapus* and *Venus* with uncleanness, they most Cruelly, to that Misery Nature hath Imposed on the Mother in Sorrow to bring forth, (though of it self of pains Equal with Death, and oft times brings Death) add their Punishment of Exposing the Mother to Publick Reproach and Shame, which to the Modest is worse than Death. And by how much the more Modest the Mother is, by so much the more easily is she tempted by the Devil, with a *Praestat Emori quàm per dedecus vivere*, to destroy her Infant to cover her own shame and his. Pope *Gregory* intending to Fish in a Deep Pond in *Rome* near a Nunnery, the Water being let out, found therein above Six Thousand Sculls of Infants: so the punishing of Child-bearing Women, and Prohibiting Marriage (Except by a Priest in a Temple) under this Infamous Punishment, contrary to the Law of God, and according to the Law of Devil, who was a Murderer from the beginning, caused the Destroying of these Six Thousand Infants; and were all the like Instances recited, which for Brevity are here to be omitted, it would appear, That this punishing of Child-births because the Mother went not first to a Priest in a Temple, hath Murderd Millions of Babes, and is the true Popish *Limbus Patrorum* Translated into the *Romish* Church from Hell, according to the Poet,

6000 Infants Skuls found in a Fish-pond.

Continuo audite voces vagitus & Ingens
Infantumque animæ flentes in Limine primo
Quos Dulcis vita Exortes & ab ubere raptos
Abstulit atra dies & funere mersit acerbo. Virg. Æn. l. 6.

And these Papal and Episcopal Destroyers, make the Child-bearing Woman justly take up the complaint of her Described; *Jer.* 4. 31. *I have heard a voice of a Woman in travel, and the anguish as of her who bringeth forth her first Child, that bewaileth her self, that spreadeth her hands, saying, wo is me now, for my Soul is wearyed because of Murderers.* Surely these Bloody Legislatours must have a Dreadful account, who make Laws, for their gains, to destroy the most Innocent of all Creatures, little Children, *Luk.* 17. 1. 2. *Then said he unto his Disciples, it is impossible but offences will come; but wo unto him through whom they come: It were better for him that a Millstone were hanged about his neck, and he cast into the Sea, than that he should offend one of these little ones.* O how far, in this, is the Practice of such as call themselves Christians different from the Doctrine of Christ? *Matth.* 18. 2. *And Jesus called a little Child unto him, and set him in the midst of them, and said, verily I say*

unto

unto you, except ye be Converted, and become as little Children, ye ſhall not enter into the Kingdom of Heaven. And verſ. 6. *Whoſo receiveth one ſuch little Child in my Name, receiveth me.* But alas! how doth this corrupted age receive ſuch a little one? They receive him indeed as He Himſelf was received, *Matth.* 26. 55. *In that ſame hour ſaid Jeſus to the multitude, Are you come out as againſt a Theif, with ſwords and with ſtaves for to take me?* But this was not the Receiving he intended, of a little one; though now, amongſt thoſe who profeſs his name, no ſooner doth God ſend a Child to be born in a Pariſh, unleſs the Mother bought a Licence of the Biſhop to bear him, and bought (which none but God can give, more than the Child) the Benediction of a Prieſt in the Temple, but the whole Multitude preſently riſe with ſwords and ſtaves, and are all in Arms againſt a poor naked Infant, weeping and wailing as the firſt taſt of his miſery, to be born into ſo wicked a World, and againſt the more miſerable Mother, like the Dam ſitting on her Young, whom they throw into ſome Dung-Cart, or other filthy Carriage, to draw her and her Child out of their bounds; and unleſs ſhe is Rich enough to hire a Houſe of Ten Pounds *per annum* value, they will not ſuffer her to come into it. Oh Prodigious Oppreſſion! Oh Antichriſtian Cruelty! What benefit now have the Poor, who have not Ten Pounds *per annum* of the Goſpels? the whole Land is in Hoſtility againſt them, they will neither ſuffer them to enter into their Pariſhes, nor their Churches; what benefit have theſe hundreds of thouſands (who have not ten Pounds *per annum*) of *Magna Charta?* What of the Petition of Right? The Foxes have holes, and the Birds of the Air have neſts, but the Woman with Child, like her purſued with the Dragon, *Rev.* 12. 2. *Cryed, travailing in birth, and pained to be delivered.* (*Quis talia fandò temperet à Lachrymis?*) hath not where to lay her Young, her Child unborn, by reaſon of Papal and Epiſcopal Laws, which are the flood of Waters caſt out of the mouth of the true *Romiſh* Dragon, *heu miſerande puer! damnatus antequam natus.* There are Hoſpitals in *Italy* and *Spain*, and many other places of large Revenues, to which Mothers who have Children without the Popiſh Ceremonial Marriage of a Prieſt in a Temple, may by night ſecretly bring or ſend their Babes, who ſhall be their Received, Alimented, and Educated without knowledg or enquiry by Biſhops Citations, or Juſtice of Peace's Warrants; and there is now one in *Paris* by the name of *l' Hoſtle pur les Enfantes troves*, or the Hoſpital of Infant Fondlings, wherein there are now no leſs than four Thouſand. But in *Great Britain* there is not the leaſt Relique of any ſuch Charity, but on the Contrary moſt cruel Laws made, to puniſh Mothers for bringing

Hoſpitals to prevent the Murder of Children not born under Popiſh Matrimony.

bringing forth Children, the moſt part of them lawfully joined to men according to the Moral Law of God, only on pretence of prohibition by Papal and Epiſcopal Laws, and their Doctrine of Devils, contrary to the Law of God, whereby they may get Money, the wicked Price of Blood, and of the Blood of thoſe who are of all other the moſt Innocent, the blood of Infants; and are ſo far from providing Hoſpitals for Babes when they are born, that they will not in *England* ſuffer their Mothers to bring them (as is already ſaid) to an Houſe of their own, if not of the Value of above Ten Pounds *per Annum*; and ſo far from being Fathers to the Fatherleſs, that by their inhuman proſecution of the Puniſhments of thoſe Cruel Laws, againſt Babes born of Parents not licenſed by the Biſhop, and benedicted by a Prieſt in a Temple, they make th Child, for whom God had provided Parents, (by compelling them to flie from him for fear of their own puniſhment,) both Fatherleſs and Motherleſs, or (what is more horrible) to be Murder'd by them who would have otherwiſe as affectionately preſerved him, as all other Natural Parents and Creatures, both Human and Brutiſh, do their Young. Oh is it not a ſufficient miſery for an Infant to be born, unleſs he is likewiſe purſued to be deſtroyed by the Cruelty of Eccleſiaſtical Monſters, and hurried from the Womb to the Tomb of their *Cœmeterial Aceldamas*, before he knows any thing of Life but Miſery? if Biſhops pity him not, let *Lucretius* do it, to their ſhame, though an Atheiſt.

Tum porro Puer ut Sævis projectus ab undis
Navita Nudus humi jacet Infans indigus omni
Vitali Auxilio, cum primum in Luminis oras
Nixibus ex alveo Matris Natura profundit
Vagituq; locum Lugubri complet ut æquum eſt
Cui tantum in Vita reſtat tranſire malorum.

Like Shipwrackt Mariners, the Child at Birth
Caſt from Rough Seas, lies Naked on the Earth,
Wanting all Vital help, when firſt from throws
Of Mothers Womb Nature doth him diſcloſe:
He Weeps and Wails, not without cauſe alas,
Why ſo much Evil in this Life muſt paſs.

All theſe Murders of Children would ceaſe, better than by a Thouſand Hoſpitals, if only this wicked Ceremonial Law invented by him who was a Murderer from the beginning, forbidding to Marry without a Prieſt in a Temple were aboliſhed, and all Marriage Publick or Private

All Marriages lawful, not prohibited by the Moral Law not of God.

not prohibited by the Moral Law of God, and Consummate by the birth of a Child, Established to be *Sine pœna aut Infamia*, as they ought in Truth and Right to be.

(17.) *It caused the* Parisian *Massacre of an Hundred Thousand Protestants.*

Why Protestants should Idolize this Ceremonial Snare of Compulsion to Marry by a Priest in a Temple, whereby the Papists with their Female Elephants hunt the Males to their destruction, in the same manner as the Priests of *Baal-peor* did the *Israelites*, is strange. *Numb.* 25. 1. *And* Israel *abode in* Shittim, *and the People began to commit Whoredom with the Daughters of* Moab. *And they called the People unto the Sacrifices of their gods: and the People did eat, and bowed down to their gods. And* Israel *joined himself unto* Baal-peor: *and the anger of the Lord was kindled against* Israel. *And the Lord said unto* Moses, *Take all the People, and hang them up before the Lord against the Sun, that the fierce anger of the Lord may be turned away from* Israel. *And* Moses *said unto the Judges of* Israel, *Slay ye every one his men, that were joined unto* Baal-peor. And besides those who were Slain by the Sword, *Verse 9. Those that died of the Plague were Twenty and Four Thousand.* I am here to speak against the mischiefs of Compulsion of Protestants to two Popish Sacraments, to both of which this *Priapeian* Ceremony of Marriage by a Priest in a Temple, is a *Causa sine qua non*, which two Sacraments, one of the Host, and the other of Marriage, are the two fatal Banquets to which the Catholick Lady useth to invite the imprudent Protestant, who hath learnt only the Innocence of the Dove, but not the Wisdom of the Serpent. Their first Sacrament which is of Bread, they have transubstantiated into Poison; their second Sacrament, which is of Marriage, they have transubstantiated into Blood; of the first, these Examples follow.

Popish Sacrament of Bread Transubstantiated into Poison.

The Emperor *Henry* the Seventh was Poison'd in the Sacrament of the Lords Supper, by a Frier of the Order of St. *Dominick*, and thereof died the same day. Perhaps one Reason why the Papist Priest Administers not the Wine to the Laity, but only the Bread, may be, because if the Priest should Poison the Wine, he drinking thereof first, might Poison himself as well as his Guests, and his Friends as well as his Enemies; but he may divide the Bread in Wafers or Morsels, such as are Poison'd, to the Parties he designs them, and such as he appoints for bits of a Passeover to the rest. But it is certain the Priest may do what he will, and whether he Poisons Bread or Wine, neither Prince or Subjects

jects have their Taſters of either; and it is very hard therefore either ſhould be compel'd to receive it of any Prieſt, except of their own Election, as to Perſon and Place, though but once a Year; and very improper and dangerous it is for a Teſt between Papiſt and Proteſtant, ſeeing it cannot be known whether the Prieſt who gives it be a Papiſt or no, for if he be, he will not ſpare Poiſon, if he can thereby reach his deſigns, on his own Religion, as appears in the Examples following, much leſs on a Proteſtant.

Lavaterus tells of a Frier at *Berna*, who was endeavour'd to be deceived by his Companions, who made counterfeit Apparitions of the Virgin *Mary* to him in the Night, that he might become an Inſtrument by divulging his Viſions, and the Revelations in them, to confirm their Superſtition amongſt the People, but it ſeems they were but Novices in the Art of Counterfeiting, and were ſo ill attired, or Acted ſo ill upon their new Stage, that though the Frier was but a Block-head, he perceived by the voice it was the Sub-prior in Womans apparel, who perſonated to him the Virgin *Mary*; they being therefore fearful he ſhould detect their Knavery, attempted three times to poiſon him in the Hoſt or Sacrament, and the third time he ſwallowed it, and vomitted it up again, hardly eſcaping with life, which made the *Bernoyes* begin not to think the Sacrament the Body of Chriſt, which was ſo often turn'd to Poiſon.

Prince *Viſnoriſky* who was a Proteſtant of the *Greek* Church, about the Year 1616, having prepared at *Chriſtmas* to receive the Communion after their manner, the Prieſt who had uſually ſerved him in that Devotion being corrupted with Money by his Enemies, poiſon'd the Bread, which the Prince having received, he ſuddenly fell ſick, and his Torments were ſo violent, as he died the next day; this bred a ſuſpicion that he had been poiſon'd, whereupon the Prieſt was apprehended, who preſently confeſs'd he was guilty, and had been procured by his Enemies; whereupon the Prieſt was Executed, being bound in a Chair of Copper Wire, and Roaſted to Death, *Turk. Hiſt.* 1350. Theſe few are diſcover'd to Men; but who can Imagine but a greater multitude of theſe Wickedneſſes are committed by ſuch as are ſo ſtudied in the Art of Poiſoning, which remain in ſecret and undiſcover'd, and are therefore reſerved to the juſt Judgment of the All-knowing God?

Of the Second, which is the Popiſh Sacrament of Marriage tranſubſtantiated into the Blood, take the Example following of the Infamous, Perfidious, Cowardly, Traiterous, Diabolical, and worſe than Barbarous and *Pagan Pariſian* Maſſacre of an Hundred Thouſand Proteſtants, under Faith and Oath given of ſafe Conduct and Peace, and on Solemn

Popiſh Sacrament of Marriage tranſubſtantiated into blood.

Covenants of Marriage, *Anno Dom.* 1572. This base Practice of the *French* Papists, who found themselves too weak in the Field to injure the Protestant, of Circumventing him by Perjury, and breach of Faith and Covenant, the most Sacred Obligations of all humane Society, is very well, and more at large displayed in a Relation but lately Printed, 1678. out of *Mezeray Thuanus*, and other approved Authors, of which, with what Brevity I can, I shall only touch Heads.

Parisian Massacre of Protestants intrapped by a Marriage.

The *French* King after Ten Years Civil War, was advised to set on foot a Treaty of Peace, not so much out of any design to quiet matters, as to ensnare the Protestants in some fatal Trap, in which they might be safely and easily destroyed; the first Bait to be offered was, the Marriage of the Lady *Margaret* the Kings Sister, to *Henry* King of *Navar*, and if that succeeded not, they were to invent still a new Plot, till they found that which would do the Business, a Peace was therefore concluded with the Protestants, by which the free Exercise of their Religion was granted them, some Cautionary Towns were also put into their hands to be kept by them two Years, till there were a full settlement made of the Edicts, and the other things agreed to for their Security: the next Progress in the Treacherous Design was, when a Confidence was begotten on the Faith and Covenants of this Peace in the Protestants, then to draw the chief Heads of the Party to the Court, and they being so flatter'd into their compass, they had the Power whensoever they thought fit, to surprize and destroy them as they pleased; the Protestant Admiral *Coligni*, was the first whom the King with a Counterfeit Countenance and Promises, and great Donatives, drew to Court; the Queen of *Navarre* was next drawn thither, but soon after died, as was generally believed of Poison, that was given her in some perfumed Gloves; to conceal which, the Chirugions that open'd her, would not touch her head, pretending that she died of an Impostume in her side; the Cardinal *Castilion* was also at that time poison'd, which though after confess'd by him that had done it, yet was not then so much as suspected; the King of *Navarre* and Prince of *Conde* were then drawn to Court, and received with all the signs of Friendship could be invented; a Dispensation was obtained from the Pope for the Marriage, and the chief Heads of the Protestants were all drawn to *Paris*, on pretence to assist at the Solemnities of the Marriage; on the Seventeenth of *August* the King of *Navarre* was Married, and four Days were spent in all the Bravery of Diversions that are usual on such occasions, but were now performed with more than ordinary Magnificence and Joy, there was but one part of the Kings deportment which could give any ground of Jealousie, which were the horrid and Blasphemous Oaths and Imprecations, which he

he made Uſe of on all occaſions, to perſuade them of the Reality of his Profeſſions, which always raiſe ſuſpitions in ſober and wary Perſons; theſe the King uſed ſo frequently, that the Writers of that time ſay, he ſeldome ſpoke three words without ſome Terrible Oath, or Blaſphemous Expreſſion; but it was now high time to Execute his Deſign, not valuing his Oaths, the Duke of *Guiſe* was therefore put upon it to get the Proteſtant Admiral Aſſaſſinated, who imployed therein one *Maurenell* who had formerly Aſſaſſinated another Perſon for him; this Rogue he placed in the Houſe of one who had been his Tutor, near St. *German* of *Auxerre*, where the Admiral uſed to paſs, as he went or came from the *Louvre*; therefore on the Twenty Second of *Auguſt* about Noon, as the Admiral was going home from the Court reading a Paper that he had in his hand, the Aſſaſſinate that was laid for him ſhot him, from the Houſe where the Duke of *Guiſe* had placed him; his Fury was charged with three Bullets that were believ'd to be poiſon'd, one of theſe carried away part of the Fore-finger, the other ſtruck in his left Arm, the third miſſed: The King was in the Tennis-Court when the news was brought him, and Perſonated a deep Reſentment, and ſaid in a Tone ſeeming full of Affliction, and with a Terrible Oath, *Shall I never have quiet?* and ſo threw away his Racquet, and went out in a Rage. The Duke of *Guiſe* did alſo counterfeit ſome Surprize. The King of *Navarre* and the Prince of *Conde* came to the King to complain, and deſired his leave to go out of Town, ſeeing men were not ſafe ſo near the Court; the King ſeemed more to Reſent it than they, and with the moſt horrible Oaths that he could think of, Swore, he would Execute ſuch Revenge on all that were found guilty, as ſhould never be forgotten, and deſired them to ſtay, and be witneſſes of it, and viſited the Admiral who lay ſick of his Wounds, with great ſhew of condoleing his misfortune; but in ſhort, after all theſe, and many other counterfeit Shews, a Council is called by *The Moſt Chriſtian*, moſt Perjured King, wherein it was Reſolved, That not only the Perſons of Quality of the Religion ſhould be killed, but every one of what condition ſoever of that Profeſſion, ſhould be Maſſacred; and amongſt them violently was moved that the King of *Navarre* and Prince of *Conde* ſhould run the common Fate of the reſt, till with much ado moderated, by another Party, that they ſhould be only enforced to change their Religion, and the Conduct of the whole Buſineſs was committed to the Duke of *Guiſe*, to deſtroy all the Proteſtant Hereticks through the Kingdom, who firſt ordered a ſtrong Guard to be ſet about the places where the Admiral and his Friends Lodged, that none might eſcape, and to have a multitude of Torches and Flambeaux ready, only to light out of their Windows; and

a multitude of Soldiers, whoſe Sign ſhould be a White Linnen Sleeve on the left Arm, and a White Croſs in their Caps, and the pretence was, that theſe ſhould ſhew the King a Divertiſement in the Night; in the Counterfeit Aſſaulting of a Fort, and the time appointed for the Execution was at Tolling of the Great Bell of the Palace, which ſhould be done near the break of Day, and then they were to light their Torches and March, the Signal was given the Morning of the 24*th.* of *Auguſt*, St. *Bartholomew's* Day, being Sunday, part of the Soldiers are ſent to the Lodgings of the Wounded Admiral, to go through with the Murder begun, and Seven breaking into his Chamber all Armed, there killed him, and the Duke of *Guiſe* being below the Court, bid them to throw him out of the Window, which was done, and either the Duke, or the Count of *Angouleſme* (for it is differently reported) wiped his face, for it was disfigured with Blood, to know if it was he indeed, and perceiving it was, trampled on his Belly, and went away; an *Italian* cut off his head, and carried it to the Queen Mother, and then embalmed it, and ſent it to the Pope; then all the Ignominy and Barbarity poſſible was exerciſed on the Dead Carcaſs, his Fingers and Hands were cut off, his Body dragged about the Streets, thrown into the Seine, and hanged up in Chains his Feet uppermoſt, and a Fire was ſet under to burn, which only Roaſted, and conſumed it not; here the horrible Maſſacre began, and ended not till it had run through the whole City, and Countrey, with all the moſt Helliſh Butcheries could be deviſed, one would cut off the Noſe, another the Ear, a third the Hands, a fourth the Arms of the ſame Party, before they would be ſo merciful as to kill him. No Degrees, Age, or Sex ſpared, Young or Old, Infant or Suckling, and a ſingle Death ſatisfied not, till they made them die many Deaths, and till, as is Eſtimated, there were deſtroyed an Hundred Thouſand Innocent Proteſtants. The Cruelty of which, was ſo abhor'd by the Soldiers themſelves, that many of them endeavour'd to ſave many of the Proteſtants; for ſure of all Men the moſt Valiant are the moſt Merciful; but the more than *Feminine* Cruelty of the *Babyloniſh* Biſhops, which they derived from the Woman who ſate on the Beaſt, ſo ſet on the Multitude, as made them worſe than all the wild Beaſts in the World, which juſtly gives cauſe of Abhorrence againſt Epiſcopal Compulſion to Marry by a Prieſt in a Temple, the ſame being the means without which this Perfidious and Bloody Maſſacre could not have been Effected.

Why the Ottoman *Emperors Marry not by a Prieſt, or in a Temple; and of the Bloody Murders enſued of the Sons of* Solyman *the Magnificent by breaking the Cuſtom, and being drawn by the Deceit of* Roxolana *to Marry her by a Prieſt.*

The Reaſons why the Grand Seigniors Marry not themſelves by a Prieſt, or in a Temple, or by a Magiſtrate, or with any other Publick Solemnity, but only make Uſe of Private Natural Marriage, are, (1.) It prevents the great Charge of a Dower or Jointure, which *Turkiſh* Emperors are bound to give their Queens who are Married by a Prieſt; for as *Withers* Relates, amongſt the Grand Seigniors Seraglio of Women, ſhe is eſteemed Empreſs who brings him the firſt Son, and they were formerly Married before the *Mufti*, or Arch-Prieſt, which was only to give one another their Aſſent before him, and he to make an *Hodget* or Note in Writing of it, and of the Dower the Emperor was to give her; which, except as to the Dower, was no other than as our Certificate of the Biſhop, touching which *Selymus* being Uxorious, and having given in his Marriage Five Hundred Thouſand Chequins a Year to his Queen, made a Law, no Succeſſor, if they Married, ſhould give leſs than he had done to their Queens; whereupon the Emperors ſucceeding forebore, and it grew out of faſhion to Marry by the Prieſt, to ſave their Dower and other exceſſive Expences incident to Publick Marriages of Princes, and had thereby likewiſe their Queens far more obſequious than before, they thereby depending wholly on the Love of their Husbands to give them what they pleaſed, according to their merit. (2.) By not Marrying by a Prieſt he is clear from all Burden of Allyances of his *Sultana*, Poor or Rich. (3.) The Grand Seignior thereby regained into his own hands the *Patria Poteſtas* belonging to every Father, of being Judg who were his own Children, which had been by his Superſtitious Predeceſſors unwarily Alien'd to his *Arch-Mufti*, or Arch-Biſhop; for by giving him Power by his *Hodget* or Certificate to declare the Marriage, there followed as incident thereto the Arch-Biſhop's Legitimation of his Children, and Declaration of his Heir Apparent and Succeſſor. Then further, the *Mahometan* Law allowing Plurality, if Married by the Prieſt they could not be Married altogether, but one after another; or if they were, a Child of a Woman Married after might come ſooner, which Priority of Marriage by the Mother would have deſtroyed the Cuſtom of Primogeniture of the Son firſt born of any Wife, whether the beloved or hated, or firſt Married, or after Married, ſo (4.) he kept the

Marriage made by the firſt birth of a Child, and not by words of a Prieſt.

the Right of Primogeniture and Peace in his own Family, which if he having an Elder Son by a firſt Wife, not Married by a Prieſt, ſhould have a Younger Son by a Second Wife Married by a Prieſt, this pretence might cauſe Murder or Civil Wars betweeen his Elder and Younger Sons, one ſtanding on his Right of Primogeniture, and the other on the *Hodget* or Certificate of the Arch-Biſhop, of *Prior* Marriage of the Later Mother by the Prieſt; as happen'd in the Example of *Solyman* the Magnificent, and *Roxolana*, *Turk. Hiſt.* 758. where it appears that *Solyman* the Magnificent begot of his firſt Empreſs, (a *Circaſſian* Bond-woman, not Married by a Prieſt) *Muſtapha* his Eldeſt Son, who proved a Prince of great Excellency, and moſt dearly beloved by the Army and People; after, *Solyman* according to their Cuſtom of Plurality of Wives grows wanton, and begets four Sons more of *Roxolana*, another of his Bond-women, namely *Mahomet*, *Selymus*, *Bajazet*, and *Tzithanger*, and one Daughter called *Chameria*, Married to *Ruſtan* the Great *Baſha*; *Roxolana* being her ſelf a great Beauty, and having ſo fair an Iſſue, and a Potent Son in Law to aſſiſt her, and no obſtacle but the Primogeniture of *Muſtapha* to make her own Son the Heir apparent of the Greateſt Empire in the World, diſcover'd her ſelf to be more adorned with Gold and Pearls than Vertue, yet counterfeits Religion to bring her Deſigns to paſs, but firſt take the *Epigram* by *Knolles* ſubſcribed to her Picture.

Fronti nulla fides, nulla eſt fiducia formæ,
Pectore dum ſævo dira venena Latent.
Philtra viro Miſcet fallax, miſerumq; coegit
Sanguine natorum Commaculare manus.

No Truſt there is to Face or Beauty, when
The Breaſt of Poiſon'd Serpents is the Den.
Her wretched Husband her Love-Cups untrue,
Made in his own Sons blood his hands imbrue.

This Woman, to begin her intended Tragedy under colour of Good-will and Love, had procured *Muſtapha* the Young Prince, and his Mother, to be ſent (as ſhe pretended for their greater Honour and Eſtate) with a Princely Train and Revenue to *Caramania*, to Govern that Great Countrey; and having thus cunningly Rid the Court of the two Competitors both of her Love and the Empire, reſted not ſo, but began ſtraight way to plot in her malicious head the Deſtruction of him to whom all others wiſhed Happineſs; and though ſhe had removed him far abſent in his Perſon, yet the continually encreaſing Fame of his Valour

lour, Vertues and Perfections, ſeem'd to be ſtill before her Eyes, and in her Ears, the great and only diſturbance of her Deſires, and Clouds which kept the Sun from ſhining on them; and doubting of any ſufficient Aſſiſtants or Inſtruments amongſt the Military Forces, in regard all the Soldiers were at the Devotion of the Prince, and not of *Ruſtan* her Son in Law, whom they hated, though ſhe had got him to be Chief Commiſſion-Officer over them; ſhe therefore fixes the other part of her hopes on the Prieſt, and Reſolves to try what cou'd be ſupplied by the Gown, which was defective in the Sword; and to prepare the way the better, ſhe on a ſudden Counterfeits her ſelf to be very Religious, and having grown by the favour of *Solyman* exceeding Rich, pretended, (as if it had been on a devout Zeal) for the health of her Soul, after the manner of their *Turkiſh* Superſtition to build an Abby, with an Hoſpital and a Church; which ſo Godly a purpoſe ſhe imparted to the *Muſti*, or Chief *Mahometan* Prieſt, demanding of him if ſuch works of Charity were not acceptable to God, and available to her Souls health? to which the *Muſti* anſwer'd, That thoſe Works were no doubt gratious in the ſight of God, but nothing at all meritorious for her Souls health, being a Bond-woman, yet very profitable for the Soul of the Great Emperour *Solyman*, unto whom, as unto her Lord, both ſhe and all that ſhe had appertained; at which anſwer of the great Prieſt ſhe ſeemed to be exceedingly troubled, and thereupon became wonderful penſive and Melancholick; her Chearful Countenance was Replete with Sadneſs, and her fair Eyes flowed with Tears; her Mirth was Mourning, and her Joy Heavineſs; which thing *Solyman* perceiving, and ſorry to ſee his Love upon Conceit ſo to languiſh, ſent her word to be of good chear, and to comfort her ſelf, promiſing in ſhort time to take ſuch a Courſe as ſhould eaſe her of all her Griefs, of which ſhe had made ſome diſcovery to him; which he did, ſolemnly Manumiſing her from her Bond Eſtate. So great a favour obtained, *Roxolana* with great chearfulneſs began thoſe Meritorious Works by her before intended, as if ſhe had thought of nothing but Heaven, whereas indeed her thoughts were in the depth of Hell. While ſhe had thus a good while buſied her ſelf in paving her way to Heaven, as was thought, *Solyman*, not able any longer to forbear the company of her in whom his Soul lived, after his wonted manner ſent for her by one of his Eunuchs, who ſhould have brought her to his Bed-Chamber; to whom ſhe with Eyes caſt up to Heaven demurely anſwer'd, That her Life and whatſoever ſhe had was at her Dread Sovereign's Command, but again to yield her Body to his Appetite, ſhe might not do, without great offence to the High God, and manifeſt breach of his Laws, which permitted her not now voluntarily to yield him that, being

ing a Free-Woman, which he before might without offence command of his Bond-Woman. And becauſe ſhe would not ſeem to uſe this as an Excuſe, ſhe referred her ſelf in all things to the Grave Judgment of the Learned and Revern'd *Mufti*, with whom ſhe before had at full confer'd. This ſhe did, preſuming of the Sovereignty ſhe had over the great Monarch, whom ſhe well knew ſhe had ſo faſt bound, in pleaſing Fetters of his Affection towards her, as that ſhe was ſure enough of him without a keeper. *Solyman* Raviſhed with her Love, and the more for her denial, ſent for the *Mufti*, requiring his Judgment in the matter; who before inſtructed in all points, agreed with what *Roxolana* had ſaid, aggravating the Heinouſneſs of the Fact, if he ſhould proceed to enforce her as his Slave, who being now Free he might not without great offence touch unmarried; whereupon *Solyman* more and more burning in his Deſires, became a freſh Suitor to her for Marriage, whom he had ſo often before Commanded without it; which his Suite eaſily obtained (as the mark at which ſhe aimed) he with all ſpeed, to the great admiration of all men, and contrary to the manner of the *Mahometan* Emperors, ſolemnly Married her by a Prieſt, which like the Papiſt's *Subſequens Matrimonium tollit Peccatum Precedens*, Legitimates the Iſſue born before, for which the *Ambodexter* Prieſt had (no doubt) a good Fee, both of the Emperor and *Roxolana*, and he gave *Roxolana* a Dowry of the Yearly Sum of Five Thouſand Sultanies *per Annum*; beſides which Fees and Dowry, and his *Patria Poteſtas*, of Legitimating his own Iſſue, and Peace of their Families, his wiſer Predeceſſors had ſaved by Marrying themſelves privately, without a Prieſt or Temple; but all theſe he loſt by it; for *Roxolana* grew now more buſie than ever, to ſeek means to deſtroy the Prince; and to that end *Ruſtan* gives the Intelligence to the Governors of *Syria*, That the old Emperor highly ſuſpected the Prince his Son of aſpiring to the Empire, bearing them in hand that the more ſuſpitiouſly they writ concerning the Prince, the leſs ſuſpitious the Emperor would be of his Governors; whereupon theſe Governors writing of the Princely Diſpoſition, Wiſdom, Valour, and Bounty of the Prince, whereby he courted and won the hearts of the Soldiers and People, and that it was probable he would at length thereby attain the Empire, *Ruſtan* not daring to bring any matter on theſe Letters to *Solyman* himſelf, brought them always to *Roxolana*, and left the reſt to be managed by her cunning and malitious head, who taking fit opportunity when *Muſtapha* was talk'd of, with Tears trickling down her Cheeks (which ſhe could well Command) with aggravating theſe Letters, and other matters invented, told the Emperor in what Danger he ſtood, recounting amongſt other things how *Selymus* his Father had

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by ſuch means deprived *Bajazet* his Grand-Father, both of his Life and Empire together, and therfore moſt inſtantly beſought him, as though this had proceeded from her tender love, by that example to provide for himſelf. But theſe light matters ſeem'd to *Solyman* of no ſufficient weight to ground ſo dangerous a ſuſpition on, ſo that ſhe little prevailed thereby, which ſhe well perceiving and grieved at, ſhe converted her Cruel mind to other miſchievious devices, and ſought by all means how to Poyſon the Innocent Prince, neither wanted there wicked Men for Reward ready to have performed all that ſhe deſired, had not Gods Providence withſtood ſo horrible a Practice; for whereas certain Rich Apparrel was by her ſent to him in his Fathers name; he fearing the worſt, would not touch it before he had cauſed it to be wore by one of his Servants, by which curious warineſs (as was thought) he at that time prevented the Treaſon of his wicked Step-dame, and diſcovered her malitious Practice. Yet reſted ſhe not ſo, but was ſtill Plotting new devices, and at laſt got from the *Baſſa* who attended the Prince, certain Letters, wherein was contained that there was a Speech of a Marriage between the Prince and the King of *Perſia's* Daughter, which thing he thought good to give knowledg of to the Counſel, that if any harm ſhould inſue thereof he might be out of Suſpition; with theſe Letters *Roxolana* and *Ruſtan* go both together to *Solyman*, aggravating the danger of the Ambition of *Muſtapha*, who under hand ſought Alliance with the *Perſian*, the old Enemy of the *Ottoman* Emperours, and that he might by the ſtrength of *Perſia*, and the *Sanzacks* and *Janizaries*, whom he had by large Gifts won to his ſervice, deprive him in ſhort time both of Life and Empire; and theſe Accuſations they proſecuted with ſuch continued Importunity, that they never ſuffer'd the Old Emperour to live quiet till he reſolved to ſecure his own ſafety by the death of his Son, in this manner, *Anno* 1552. He cauſed an Army to be Levyed by *Ruſtan*, in pretence againſt *Perſia*, but indeed to ſurprize *Muſtapha*, and bring him bound to *Conſtantinople*, and if he could not, by any other means to make him out of the way. And in the year. 1553. *Solyman* himſelf in Perſon marches with the Army againſt his Son, but the Deſign could not be carryed ſo private, but *Muſtapha* had ſome intelligence of his Fathers Mortal, though undeſerved hatred againſt him. *Solyman* lying Incamped at *Aleppo*, by Meſſage commanded his Son *Muſtapha* to come unto him there. This caſt *Muſtapha* into great perplexity of mind what to do, either to hazard his life by putting himſelf into his Father Power, or by flight or ſome other way to provide for himſelf; yet truſting to his own Innocence, though wonderfully troubled in mind, he Reſolved, though

with the extremeſt danger of his life, to obey his Fathers command; thinking it more honorable to incur danger of death, than living to fall into foul ſuſpition of diſloyalty. In ſo great a perplexity of mind, after he had with himſelf much diſcourſed too and fro, what courſe he were beſt to take, at length he boldly and reſolutely asked the Doctor, whom (as we have before ſaid) he had always with him in his Court, whether the Empire of the World, or a Bleſſed life after it were more to be deſired? To whom the Doctor frankly Anſwered, That the Empire of the World, to him that would enter into the due conſideration thereof, brought with it no Felicity, more than a vain Show and outward appearance of Good, nothing being more frail and uncertain than Worldly Honour, bringing with it fear, vexation of mind, tribulation, ſuſpition, murder, wrong, wickedneſs, ſpoil, ruin and captivity, with infinite miſchiefs of like nature, not to be deſired of him that would attain to true Felicity, by which means the Bleſſed life was to be loſt and not gained: But they unto whom God had given the Grace rightly to Conſider and Weigh the Fragility and ſhortneſs of this our Eſtate, (which the Common Sort deemeth to be the only life) and to ſtrive againſt the Vanities of this World, and to Embrace and Follow an upright kind of life; had undoubtedly a place Aſſigned for them in Heaven, and prepared by the great God, where they ſhould at length enjoy Life and Bliſs Eternal. This Anſwer of the great Doctor, wonderfully ſatisfied the troubled mind of the young Prince, foreſeeing as it were the approach of his own end: and ſo ſtaying not any longer Diſcourſe, forthwith ſet forward towards his Father, and making great haſt, came at length to his Fathers Camp, and not far off pitched his Tents in the open field, but this his ſo haſty march the more increaſed the ſuſpition, in the mind of his wicked Father: neither ſpared *Ruſtan* in the mean time with his crafty and ſubtle devices to Augment the ſame; for by a ſign given he cauſed the *Janizaries* and chief Men in the Army to go, as if it had been for Honours ſake, to meet *Muſtapha*; which they all without delay preſently did at his Command, and ſo altogether ſet forward: in the mean time he the moſt crafty Varlet, with troubled Countenance (for he could notably diſſemble) as a Man half diſmayed, came in haſt into *Solymans* Pavillion, and falſly told him, That the *Janizaries* and almoſt all the beſt Souldiers of the Army were of themſelves without leave gon to meet *Muſtapha*, and that he feared what would enſue thereof. Which news ſo troubled the old Tyrant, that he became pale for fear, and going out of his Tent, and finding them gone, eaſily believed all to be true that the falſe *Baſſa* had told him. Neither wanted *Muſtapha* ſtrange warning of his end ſo near at hand, for the third day before his ſetting forwards towards his Father, falling a ſleep in the Evening, he thought

thought he ſaw *Mahomet* his Prophet in Bright Apparrel, to take him by the hand, and lead him into a moſt pleaſant place, beautified with moſt ſtately and glorious Palaces, and moſt Delicate and pleaſant Gardens; and pointing to every thing with his Finger, to ſay thus unto him, Here reſt they for ever, which in this World have led an upright and Godly life, following vertue, and deteſting vice. And after that turning his face to the other ſide, to have ſhewed him two great and ſwift Rivers, whereof the one boiled with Water blacker than Pitch, and in them appeared (as he thought) numbers of Men wallowing and tumbling, ſome up, ſome down, crying horribly for Mercy; and there (ſaid he) are Puniſhed all ſuch as in this frail life have been the malicious workers of Iniquity: The chief of whom (as he ſaid) were Emperours, Kings, Princes, and other great Men of the World. *Muſtapha* awaking, and troubled with this melancholick Dream, called unto him his Doctor: and having told him all the matter, asked him, what the ſame might ſignify? ſtanding a great while in a muſe (for the *Mahometans* are exceeding Superſtitious, Attributing much to Dreams) full of Sorrow and Grief at length Anſwered, That this Viſion (for ſo it pleaſed him to term it) was undoubtedly to be feared, as preſaging unto him the Extream Peril of his life; and therefore Requeſted him, to have great care both of his Life and Honour. But *Muſtapha*, as he was of a notable Spirit and Courage, regarding nothing that Anſwer, ſtoutly Replied, What, ſhall I ſuffer my ſelf to be terrified and overcome with Childiſh and Vain fear? Why rather haſt I not Couragiouſly and Reſolutely to my Father? and ſo much the more boldly, becauſe I know aſſuredly I have always (as Reaſon was) Reverenced his Majeſty, that againſt his will I never turned mine Eyes or Foot againſt his moſt Royal Seat, much leſs affected his Empire, except the moſt high God had called him to a better life, neither then without the General good likeing and choice of the whole Army, that ſo at length I might without Murder, without Blood, without Tyranny well and Juſtly Reign, and in Love and Peace inviolate live with my Brethren: for I have ſet down with my ſelf and choſen, if it be my Fathers pleaſure ſo, rather to die in his obedience, than Reigning many years, to be reputed of all Men, eſpecially my Competitours, a Rebel or Traitor. Having thus ſaid, he came unto his Fathers Camp, and pitching his, (as we have before ſaid) ſuted himſelf all in White, in token of his Innocency, and Writing certain Letters (which the *Turks* when they are about to go to any place of Danger uſe to Write, and always to carry with them (for they are wonderful Fooliſh in their Superſtition) and putting them in his Boſom, attended upon with a few of his moſt

Truſty followers, came with great Reverence towards the Tent of his Father, fully reſolving to have kiſs'd his hand, as their uſual manner is. But when he was come to the Entrance of the Tent, remembering that he had yet his Dagger girt to him, he entred not, till he had put it off; becauſe he would not come into his Fathers ſight with any Weapon, if happily ſo he might clear himſelf of his Fathers needleſs ſuſpition; ſo when he was come into the more inward Rooms of the Tent, he was with ſuch Honour as belonged to his Eſtate chearfully Received by his Fathers Eunuchs, but ſeeing nothing elſe provided but one Seat whereon to ſit himſelf alone, he perplexed in mind, ſtood ſtill a while Muſing, at length asked where the Emperour his Father was? Whereunto they Anſwered, That he ſhould by and by ſee him: and with that caſting his Eye aſide, he ſaw Seven Mutes (theſe are ſtrong Men bereft of their Speech, whom the *Turkiſh* Tyrants have always in readineſs the more ſecretly to Execute their Bloody Butcheries) coming from the other ſide of the Tent towards him, at whoſe ſight ſtricken with a ſudden Terrour, ſaid no more, but lo my Death; and with that ariſing, was about to have fled: but in vain, for he was caught hold on by the Eunuchs and Mutes, and by force drawn to the place appointed for his Death, where without further ſtay the Mutes caſt a Bow-ſtring about his Neck, he Poor Wretch ſtill ſtriving, and requeſting that he might but ſpeak two words to his Father before he died. All which the Murtherer (for no addition is ſufficient Significantly to expreſs his unnaturall Villany) both heard and ſaw by a Travers from the other ſide of the Tent: But was ſo far from being moved with Compaſſion, that thinking it long till he were diſpatched, with a moſt Terrible and cruel Voice he rated the Villaines enured to Blood, ſaying, will you never diſpatch that I bid you? Will you never make an end of this Traitor, for whom I have not Reſted one night theſe ten years in quiet? which horrible commanding Speeches yet thundring in their Ears, thoſe Butchering Mutes threw the Poor Innocent Prince upon the Ground and with the help of the Eunuchs forcibly drawing the knitted Bow-ſtring both ways by the Commandment of a moſt wicked Father, ſtrangled him. With like Barbarous Cruelty, he ſhortly after cauſed *Mahomet* his Nephew (*Muſtapha* his Son) to be ſtrangled alſo. This unnatural and ſtrange Murther committed, he preſently Commanded the *Baſſa* of *Amaſia*, *Muſtapha's* Lieutenant to be apprehended, and his head in his own preſence to be ſtruck off; which done, he ſent for *Tribanger*, yet Ignorant of all that was happened, and in ſporting wiſe, as if he had done a thing worth Commendations, bid him go meet his Brother *Muſtapha*: which thing *Tribanger* with a merry and chearful Coun-

Countenance haſted to do, as one glad of his Brother's Coming. But aſſoon as he came unto the place where he ſaw his Brother lying dead upon the Ground ſtrangled, it is not to be ſpoken how he was in mind tormented. He was ſcarcely come to the place where this Deteſtable Murther was Committed, when his Father ſent unto certain of his Servants to offer unto him all *Muſtapha*'s Treaſure, Horſes, Servants, Jewels, Tents, and withal the Government of the Province *Amaſia*: But *Trihanger* filled with extream heavineſs for the unmerciful Death of his well beloved Brother, ſpake unto them in this ſort, Ah Wicked and Ungodly *Cain*, Traitor (I may not ſay Father) take thou now the Treaſure, Horſes, the Servants, the Jewels, and the Province of *Muſtapha*. How come it into thy Wicked, Cruel, and Savage Breaſt, ſo ungratiouſly and contrary to all Humanity, I will not ſay the Reverence of thy own Blood, to kill thy Worthy, Warlike and Noble Son, the Mirrour of Courteſie, and Prince of Greateſt hope, the like of whom, the *Othoman* Family never yet had, nor never ſhall? I will therefore my ſelf provide that thou, nor none for thee, ſhall never hereafter in ſuch ſort ſhamefully Triumph over ſuch a Poor Wretch as I am. And having thus much ſaid, Stab'd himſelf with his own Dagger in the Body, whereof he in ſhort time dyed: which ſo ſoon as it came to the Old Tygers Ears, it is hard to ſay how much he grieved. His dead Body was by his Fathers Commandment carryed from *Aleppo* in *Syria*, to *Conſtantinople*, and afterwards Honorably buried on the other ſide of the Haven at *Pera*.

Hence appear the two great benefis the *Ottoman* Emperors receive from not medling at all with the Prieſt, either in Coronations or Marriages, but as to the firſt, rather wear no Crown at all, and are content with a Turbant, than receive it from them or their Unctions; and for their Marriages, take what Wife they like in Private, without them, or their Solemnities. For firſt the ſparing a Coronation and likewiſe the Solemnity of any Marriage (which cannot avoid, if publick by a Prieſt, the forementioned Exceſſes of Apparrel, Tilting, Turneaments, Masking, Gluttony, Riot, Drunkenneſs, Dowers and Gifts, on the Coronations and Marriages of ſo great Princes) ſaves him a Vaſt ſome of Money to his Private Treaſure; and what is a greater benefit than the other, ſecures his Supremacy againſt the Eccleſiaſtical *Mufties* and Caliphs, who can make no pretence to depoſe him, or take from him or his Succeſſors that Government, which they never gave him, nor he would receive from them, or his Sons from their Unctions or Certificates.

(12.) *They*

(12.) *They proceed to Judgment in the unknown Language of Law-Latine.*

That the *Romiſh* Biſhops and Prieſts were the firſt who brought Latine into Churches, and compelled the People to Pray to God in any Language they underſtand not, I ſuppoſe none will doubt: and I cannot think any will oppoſe, but grant, theſe likewiſe were the firſt who brought the ſame Barbarous Latin, both into the Spiritual and Temporal Courts, they themſelves being at firſt the chief Judges and Clerks of both. It will not likewiſe be denyed that *William* the *Norman* was the firſt who brought in his Barbarous *French* to this Nation, and if we conſider no further than that the Authors of theſe two Languages were Forrein Enemies and Papiſts, I ſee no Reaſon any Proteſtant Divines or Lawyers have (except filthy *Lucre*) to be ſo fond of them as to continue ſuch Exotick Gibberiſh, to be not the leaſt corruptions of our Religion and Juſtice, and ſnares of Liberty and Propriety, and ſomtimes of Life it ſelf.

The final cauſes therfore which induce theſe uncouth and crabbed Languages and Characters, both of Court and Chancery hands, have been and are very wicked. (1.) One cauſe for which the *Roman*, and likewiſe the *Norman* (who was the others Ape) put the Forms of Judicial proceeding into unknown Languages, was, to intrap the People. *Bak. Hiſt.* 27. (2.) It hath been continued by Judges and Officers of Courts, to Monopolize the Trade of Law. (3.) That *Ignoramus* and *Dulman*, who had not been at Shool long enough to learn true Latine, might write half Words and Daſhes, which the Country Men might not be able to underſtand, and laugh at *Scribe cum Daſho & bene eſt.* (4.) That motions at Bar and demurrers and arguments in Law may multiply and cut out the more Work for Counſel; for often times many a Term is ſpent in Babling about the pedigree of a falſe Latine word, Coin'd by *Dulman*, to derive it as high as a Radix, which grew in Babel, and when they have done that, as great a Task they have to make it agree with his *Anglicè*, whereby all the Coſt, and many a good Cauſe is loſt, becauſe the Clerk could neither Latine nor Engliſh right. (5.) But when there is a Miſ-priſion or Miſ-pleader by reaſon of a Language the Clerk underſtands not, what a World of money will it coſt his poor Client, to get an Amendment for him of one, or Repleader of the other? The beſt Counſel in the Town muſt be Retain'd, and they muſt ſpend at leaſt a twelve month from Term to Term, before they can be all heard, *Pro & Con*, to repeat over all the Acts

Acts of Parliament ſince *Magna Charta*, and all the *Rotulo's* in ſuch a *Hillary* and ſuch a *Michaelmas* Term. And all the Bundles in *Ragman-Bag*, and all the Records in the Tower, to the amazement of the Poor Countryman, who keeps Twitching them by the Sleeves, and Crying out like him in *Martial*,

Non de vi neq; cæde, nec veneno
Sed lis eſt mihi de tribus capellis;
Vicini queror has abeſſe furto,
Hoc Judex ſibi poſtulat probari.
Tu Cannas Mithridaticumque bellum
Et perjuria Punici furoris
Et Sullas, Marioſque, Mutioſque,
Magna voce ſonas, manuque tota.
Jam dic Poſthume de tribus Capellis.

For Poyſon, Force or Slaughter I not ſue,
But for three Sheep taken by Treſpaſs new;
My Neighbour took them, and doth make denyal,
The Judge demands to have it brought to Tryal.
You talk how *Scots* did on the Biſhops fire,
And *Presbyters* reliev'd by *Cromwel* dire;
And how they Perjur'd broke the Covenant,
And *Independents* thereupon did rant,
With tongue and hand why ſuch a Coil d'ye keep?
Pray Sir pleaſe now to ſpeak of my three Sheep.

(6.) That they may conceal in a Cloud the Fictions, Falſities, Formalities, Unneceſſarineſs, Abſurdities, Repugnancies, Confuſion and Injuſtice of their Proceedings; which if Intelligible to the People they could neither avoid the Shame nor the Reformation.

Francis the firſt for a ſum of Money Commanded the *French* Laws, Pleadings, and Proceeedings ſhould be in the *French* Language, which were before in *Latine*; and this ſo pleaſed the People, that they ſaid the ſame was the firſt year wherein the Kingdom was out of Wardſhip. But here note the Covetouſneſs of the *French* King, who would not eaſe his Subjects of that Wardſhip which laid much miſery on them, but yielded not him a Penny profit, without a great ſum of Money; for he had never learned *Nulli vendemus Juſtitiam*, but put them to buy at higheſt every bit of Juſtice, which would have coſt him no more than a word of his Mouth, to have given freely. Our Noble King

Edward

Edward the Third 36. *E.* 3. *cap.* 15. intended freely to have Infranchiſed his Subjects from the ſlavery of a ſtrange Language, but he not being acquainted with the Terms of Judicial Proceedings (as what Prince can be when kept in an uncouth unknown Tongue?) the Biſhops and Clerks deceived him, as they have done in moſt Acts of Parliament wherein they found themſelves Concern'd, and ſet a Fair Title on the Act, and only changed *French* into *Latin* for their own profit, and not for the Peoples Benefit. Three ſorts of Letters and Characters there are Illegible. (1.) Such as are Antiquated in the ſame Nation; As the Letters and Characters of the *Germans*, *Gauls*, *Spaniards*, and of other Nations periſhed by Introducing the *Roman* Letters and Characters; and their Tongues become Mixed and Corrupted, and no longer than between the Firſt and Second *Punick* War, the *Roman* Language was ſo chang'd, that the beſt Antiquaries in *Rome* could not underſtand the Articles of Peace made between the *Romans* and *Carthaginians*, at the concluſion of the firſt War. So *Horace*, though a Learned Poet in his own Countrey-Language, confeſſeth he underſtood not *Carmen Saliare* made in *Numa Pompilius* his Reign. (2) When they are the Letters or Language of a Forreign Nation. (3.) When they are Letters nor Language of any Nation, but made by Confederacy between ſome Party or Sect of Men in the ſame; ſuch are Private Cyphers of Intelligences, and Lawyers Latine, Terms of *Metaphyſicks*, School-men, Phyſitians, and Others, who ſeek to obſcure their Trade for their Gain. *Forteſcue P.* 112. makes the reaſon why the Laws of *England* were not taught in the *Univerſities*, to be, becauſe the Judicial proceedings were in *French*, and Lawyers Latine, and Court hand, and Chancery, which the University-Men did not underſtand; and yet (what is more ſtrange) there were none then but Clerks or Clergy who had the chief ordering of thoſe Courts of Equity; which doth not appear for what Reaſon it was, unleſs it was in Revenge by the Layety againſt the Clergy, As they ſent them to Hell by forcing them to Prayer in Latine they underſtood not, ſo they would ſend them to Hell too by forcing them to do Juſtice in Latine they underſtood not.

Latine Pleading worſe than *Latine* Prayer.

It appears by the Statute of 3. *R.* 2. *Cap.* 3. Of *Premunire*, That the *Pope* uſed to place Forreign Prieſts in Benefices of a Forreign and ſtrange Language, with whom the People could not Converſe, but as long as the Prayers were in *Latine* it was no matter whether People or Prieſt underſtood them, or one another. And the Truth is, *Latine* Pleading is worſe than *Latine* Prayer; for none can be hindred from Praying to God in *Engliſh*, but from Pleading he may to a Judg. So to keep *Latine* in Courts, keeps all in readineſs to bring it again into Churches,

Churches, and to turn out the *Engliſh* and Foreigners into both. This is very miſchievous in many reſpects, for, firſt, when a Writ comes to a Biſhop himſelf he underſtands it not, and may ſooner forſwear himſelf than perform his Duty in it. (2.) When a Writ comes to the Sheriff he can neither read nor underſtand it, nor many times his Under-Sheriff, and they likewiſe may both ſooner forſwear themſelves than perform their Duty. Then it may ſometimes happen to be ſent to the Coroners, where the Sheriff is a Party, and they are in no better condition than thoſe before. Then if a *Subpœna* or other Order or Declaration in *Latine* be ſerved on the Poor Defendant, he runs in a great affright to one Neighbour, and the other Neighbour, and then at length to the Miniſter himſelf of the Pariſh, who all cannot read or underſtand one line of the matter: then muſt he run away to an Attorny, and give him his Fee, and then to a Councel; and then all the matters are found to be as falſe in the Fact, as they are in the *Latine*, and only done for vexation of the poor Man; and this he might have known in his own Pariſh, if it had been *Engliſh*, without being put to what is to him a great coſt and trouble: Then, if it happen the matter to be true, and it come to Tryal at the *Niſi Prius*, the Iſſue is in *Latine* and Court-hand, ſo are the *Pleas* and *Declaration*, there is not a man in the Jury can read a word of it, the Jury goes by Implicite Faith to whatever the Councel for Hire inform them, and are in as great danger of Perjury, as the Sheriff and his Under-Sheriff were before. Then turn over to the Crown ſide, the Bills of Indictment are all in *Latine*, the Witneſſes bound over to proſecute can neither Read nor Write, much leſs underſtand *Latine*, the malicious proſecutor puts what he will in the Bill, the Witneſſes Swear to the *Latine*, and are Perjur'd for the poor Countrey men if it be *Latine*, and the Juſtice of Peace that binds them over, thinks they ought to Swear to the Bill of Indictment, let it be what it will, or they ſhall forfeit their Recognizance; and ſeeing they can neither read nor underſtand it, thinks they muſt Swear by Implicite Faith. And many times even ſome of the Grand-Jury may not be ſo well skill'd in Law-*Latine*, but were it not by Implicite Faith only to their fellows *Billa Vera*, they would, if the Bill were in *Engliſh*, find an *Ignoramus*. So likewiſe Church-wardens commonly think it lawful to forſwear themſelves, if it be done in a word of *Latine*. I knew one who uſed when he had been cited to make Preſentment according to the Charge in the Book of Articles, to the Biſhops Court, he uſed always at his Return from Court, to boaſt that he had preſented *omne bene*, and thought his Conſcience well diſcharged, whether all was ill or well, as long as he preſented ſomething in his kind of *Latine* which he underſtood not. The Evils are likewiſe conſide-

rable enough, in keeping up still this old Popish Language in the written Instruments of Bonds, Charters and Patents; you shall not have a Bond in *Latine* written by an ordinary Clerk or Scribe in the Countrey, but he is apt to mistake; sometimes he will write *Wiginti* for *Viginty*, *Quadraginta* for *Quadringenti*, *Quinquaginta* for *Quinginti*, or the like; or mistake in the Dashes, for if those too be not *More Clericorum*, 'tis as bad as false *Latine*; yea, to put in true *Latine*, where they use to write it false, may be dangerous; for you run a hazard, either to lose your Money, or to fall into the misery of a Common Law Demurrer, or a *Chancery* Suite, which costs many times more than the Principal is worth, to recover it. Then further, if the Obligor or Obligee understand not *Latine*, nor can examine the Writing to be Sealed, the Scrivener or Clerk may take Money of one part, and Cheat the other as he pleaseth.

Then as for *Latine* in Charters and Patents, they are Penn'd in such obsolete, uncouth, and Barbarous Terms, that the King is many times abused and deceived in his *Graunt*, and the *Grauntees* likewise; and fall often into tedious and wastful Suites about a word, which if they had been in *English* would never have been nor happen'd. As bad mischiefs likewise often fall out by the Physician's using this Popish Language in his Bills, as by the Lawyers; for the Apothecaries Boys, though they have been at School, know not all the words in the Dictionary, nor can they find there the Barbarous Words and Terms of *Latine* or *Greek* Physick, nor their Antick and unnecessary Notes or Characters of Weights and Measures: So that oftentimes by mistake, either of the Ingredient or Dose, many a Patient is thereby Poison'd and kill'd, and be he Protestant or Papist, they find alike, that their Implicite Faith in the Doctors *Latine* did not save, but destroy them; though they come not to complain after they are dead.

Again, to keep Laws and Judgment in *Latine*, shews that Bishops are not (as they falsely pretend) Successors to Christ, nor to the Apostles; for those who had mission from them, had the gift of Tongues, purposely that they might Preach to every Nation in their own Language; as appears *Acts* 2. 7. *And they were all amazed, and marvelled, saying one to another, Are not all these which speak* Galileans? *And how hear we every Man in our own Tongue, wherein we were born?* Parthians, *and* Medes, *and* Elamites, *and the dwellers in* Mesopotamia, *and in* Judæa, *and* Cappadocia, *in* Pontus, *and* Asia, Phrygia, *and* Pamphylia, *in* Ægypt, *and in the parts of* Libya, *about* Cyrene, *and strangers of* Rome, Jews *and* Proselytes, Cretes, *and* Arabians, *we do hear them speak in our Tongues the wonderful works of God.* And 1 *Cor.* 14. 18. *I thank my God, I speak with Tongues more than you all. Yet in the Church, I had rather.*

ther ſpeak five words with my Underſtanding, than Ten Thouſand words in an unknown Tongue. To Judg a Nation therefore in an unknown Tongue, is Anti-Chriſtian, and Anti-Apoſtolick. Though the *Turk* prohibites Tranſlation of his *Alcoran* out of the *Arabick* Tongue into the *Turkiſh* Language, yet he permits the People to have matters of Juſtice adminiſtred to them in their own Tongue. In old *Rome* the Forms of Actions and Judicial Proceedings, were for many Ages kept hid by the Prieſts in ſecret, amongſt the pretended Sacred Rites and Ceremonies of their gods; which matters of Religion and Juſtice were by moſt of the Ancient Prieſts kept in a Language unknown to the People, under the name of a Sacred Language, and only underſtood by the Prieſts; one of theſe Books of Forms *Cneius Flavius*, a Clerk to one of the Prieſts, Copied or Tranſlated; and Publiſhed one, to the great Indignation of his Maſter, and of all the reſt of the College of Prieſts. But ſo grateful was the doing the ſame to the People, that they advanced him to great Honours, and made him a *Curule Ædile*, only for doing the ſame. In the Councils of *Venice*, the Nobles are bound to uſe the *Venetian* Language, and when any hath begun to ſpeak *Latine*, they have him in great Diſlike, clapping their hands and crying out hold, hold. *Govern. Ven.* 26.

In *China* though the Languages of the Provinces differ, yet have they one General Court-Language, call'd *Quonhoa*, for their Courts and Writings, which is common through all *China*, by means whereof the Magiſtrate need not in every Province to learn a new Language. Though the *Perſian* Empire was very great, and contained an Hundred and Twenty Provinces, and every Province had a *Satrapa* or Sheriff to Govern it, yet, *Eſther* 1. 22. Ahaſuerus *ſent his Writs unto all theſe Sheriffs into every Province, according to the writing thereof, and unto every People after their own Language.* The *Greeks* and *Romans* had their Proceedings in their own Language. And in *Germany* all Law-Suites are in the *German* Language, as ſaith *Clapmarius de Arcan. Dom. P.* 119. *Conſtitutio imperii eſt, ne in Camera lites alia Lingua intendantur niſi Germanica.* Jerem. 5. 15. Threatens, as the greateſt Plague, *I will bring a Nation upon you from far*, (and after he ſaith) *a Nation whoſe Language thou knoweſt not, neither underſtandeſt what they ſay. Their Quiver is an open Sepulchre, they are all mighty men, and they ſhall eat up thy Harveſt, and thy Bread, which thy Sons and thy Daughters ſhould eat, they ſhall eat up thy Flocks and thy Herds; they ſhall eat up thy Vines and thy Fig-trees; they ſhall impoveriſh thy Fenced Cities wherein thou truſtedſt, with the Sword.* And what do Biſhops with their *Latine*, and falſe *Latine*, and the whole Language of the Beaſt, but the ſame? This is a great Evil; yet would be Remedied with a word, and would make his Majeſties Name Renowned to future

Generations, that he was the first King of *England* who vouchsafed to send his Commands to his Subjects, in the same Royal Language which he spoke himself.

They Judg for Fees, and not for Salary.

In the time of *Bajazet* the Fourth, the *Turkish* Kingdom growing in Greatness, grew likewise in Corruption, but especially in the Men of Law and Judges of his Courts, who made all Justice saleable for Bribes; whereat *Bajazet* grievously inraged, commanded divers of the same Judges to be apprehended, determining to the Terror of others to have executed them, whose dangerous Estate was much pitied by *Alis Bassa* and other Courtiers, they perhaps selling their Places to them, and thereby forceing them to sell Justice to others; yet none of them durst adventure, seeing *Bajazet* was of a furious Nature, and in his Anger dangerous to be spoken with, to mediate in their behalf; no not *Alis Bassa*, *Charadin Bassa*'s Son, whom of all men he favour'd most.

Bajazet's fury against Judges taking Bribes.

There was at that time in the Court an *Æthiopian* Jester, who under some Covert pleasant Jest, would often times bolt out to the King in his greatest heat, what his graveſt Councellors durst not speak to him in secret. This Jester *Alis Bassa* requested to devise some means to entreat the angry King in behalf of these Judges, promising to give him what he would desire, if he could appease the Kings displeasure. The *Æthiopian* without fear undertook the matter, and presently put on his Head a rich Hat, all wrought over with Gold, and, accoutred in all other his Cloths suitably, presented himself before the King with a great counterfeit Gravity; whereat *Bajazet* marveling, asked him the cause why he was so Gay. I have a Request unto your Majesty, said he, and wish to find favour in your sight. *Bajazet* more desirous than before to know the matter, asked what his Request was. If it stand with your pleasure said the *Æthiopian*, I would fain go as your Ambassador to the Emperor of *Constaminople*, in hope whereof I have put my self in this readiness. To what purpose wouldst thou go? said *Bajazet*. To crave of the Emperor some Forty or Fifty of his old grave Monks and Friers to bring with me hither to the Court. And what should they do here? said *Bajazet*. I would have them placed, said the Jester, in the rooms of the old doteing Judges, whom you intend as I hear to put to death. Why, said *Bajazet*, I can place others of my own People who are better, in their rooms. True, said the *Æthiopian*, for Gravity of Look and Countenance; and so would the old Monks and Friers serve as well, but not so learned in the Laws and Customs of your Kingdom as are those

in

in your displeasure. If they are Learned, why do they then (contrary to their Learning) pervert Justice, and take Bribes? There is a good reason for that too, said the Jester. What reason? said the King. That can he that there standeth by, tell better than I, said the Jester, pointing to *Alis Bassa*, who, forthwith commanded by *Bajazet* to give the reason, with great Reverence first done, shewed that those Judges so in displeasure were not conveniently provided for, and were therefore enforced many times for their necessary maintenance to take Rewards where they could get them, to the staying of the due course of Justice; which *Bajazet* understanding to be true, commanded *Alis Bassa* to appoint them convenient stipends for their maintenance, and forthwith granted their Pardon. Whereupon the *Bassa* set down Order, That of every matter in Suit exceeding One Thousand Aspers, the Judges should have Twenty Aspers; which Fees they yet take to this day. Whence may be Observed,

(1.) That to place Judges in Courts to undergo the incessant labours of hearing multitudes of Causes, and not to allow them honourable maintenance, is the ready way to make men of ordinary Principles Freebooters, and to take the Prey for themselves. So the meanness of the Salary in *Russia* being but an Hundred Marks *per Annum*, makes the Judges extream Extortious on the People.

(2.) That those who buy either Judicial or Ministerial places in Judicatories, must sell again; and the sale of either is contrary to the Law of God, and of infinite Damage to the Publick, turning the weights of Justice to the false weights of Merchandize, as says the Poet,

Ergo Judicium nihil est nisi publica Merces,
Quid faciunt leges ubi sola Pecunia Regnat?

(3.) That the *Basha* when he was appointed to provide the Judges maintenance by stipend, providing the same by Fees made them worse then before, and gave them a pretence to take Bribes of the People under the name of Fees, and there are none more corrupt Judges for Bribery, than the *Turks* to this day; and well they may if they take Fees.

Neither Judge nor Minister to take Fees but Salary.

It was the Ancient Law of *England*, that none having any Office concerning the Administration of Justice, should take any Fee or Reward of any Subject for the doing of his Office. *Coke* 2. *part* 176. and by the Statute *Westm.* 1. *cap.* 25. neither Judicial nor Ministerial Officer, as Sheriff, Escheator, Coroner, Bailiff, Gaoler, Clerk of the Market, Aulnager, nor other inferior Minister or Officer of the King, whose Offices do any way concern the Administration or Execution of Justice, or the

the common good of the Subject, or the Kings Service, but ſhall be paid of what they receive from the King, on pain the Offender againſt this Act ſhall pay double Damages of the Plaintiff, and ſhall be otherwiſe puniſh'd at the Will of the King.

Marrying for Fees contrary to the Laws of God and of the Land.

By which appears that the Epiſcopal Judging of *Marriage*, *Filiation*, *Aliment* and *Succeſſion* for Fees, and the granting of Licenſes of Marriage by Biſhops, and taking of Fees by a Prieſt for Banns, or Marriage of any Perſons in a Temple or elſewhere, is wicked, abominable, and contrary to the Laws of God, and Fundamental Laws of the Land, and they ought to be puniſh'd for doing the ſame; and had not Biſhops corrupted the true Doctrine of Gods Ordinance of Marriage, to obtain Fees and other covetous and ambitious Ends, Men had at this day Married according to the Moral Law of God, and not the Ceremonial Laws of *Priapus* and *Venus*.

The Inconveniences which enſue Judges and Miniſters taking Fees, are

(1.) As *Coke* ſaith, 2 *part*, 210. When neither Judges or Miniſters had any Fees, then had they no colour to exact any thing of the Subject, who knew they ought to take nothing at all of them, they being maintained by Salary from the King: but when ſome Acts of Parliament, changing the Rules of the Common Law, gave to the Miniſters of the King Fees, in ſome particular Caſes, to be taken of the Subject; whereas before, all their Office was done without taking, now no Office at all is done without taking, and a gap being once open'd, there was after no bounds to the breach; ſo it cauſeth Oppreſſion.

(2.) It cauſeth corruption of Juſtice, for if a Judg take Fees it is from the Plaintiff and Defendant, and he will ſell Juſtice to him who gives him the greateſt; but if he take a Salary he takes it from the Publick, and will be for the Publick good, and not partial to the Parties.

(3.) The Publick, by giving the Salary and receiving the Fees, increaſes the Publick Treaſury; for the vaſt Income of Fees far exceeding the Merits of the Judges and Officers, it is juſt the overplus ſhould be applied to diſcharge Publick Burdens, and not to fill private Pockets; and what was unequally ſhared amongſt Officers ignorant and idle by way of Fees, might be more equally divided by way of Salary, according to the proportion of Skill and Pains.

The *Engliſh* in *Scotland* turn'd all the Fees of Courts into a Publick Treaſury.

The *Engliſh* Judges therefore ſent into *Scotland*, put the forementi-on'd Statute of *Weſtm.* 1. *cap.* 25. to experiment there, and turned all Fees into a Publick Treaſury, to manage which we allowed our Treaſurer out of the ſame Two Hundred Pound *per Annum*, and allowed

Salaries

Salaries to our ſelves as the State appointed us, and to all our Clerks and Officers neceſſary, proportionable to Skill and Pains; which Treaſury of Fees not only ſatisfied all the *Engliſh* and *Scottiſh* Judges and all the Officers of Juſtice, without any charge or trouble to the State, but likewiſe many Military Officers of the Army; and we found by experiment, that far more exact Juſtice was done by Salary, than ever any was done by Fees. And if the ſame were practiced here in *England*, it cannot be, but the like effect muſt follow as to Juſtice, but vaſtly greater as to the increaſe of the Publick Treaſury, eſpecially if the number of Judges were reduced to Three, who, as is after ſhewn, are ſufficient to diſpatch all matters of Judicature, Civil, Eccleſiaſtical, and Criminal of the Kingdom.

Exceptions againſt Biſhops being Judges, in reference to the Executive Power.

They begin the Suit with Execution.

No Writer of the Forms of Judicial Proceeding, except the Biſhop, was ever ſo Abſurd as to Tolerate, much leſs to Ordain, any Law-Suit to be begun with Execution; and this is that which makes the *Spaniſh* and *Romiſh* Inquiſitions, and the Barbarous Inquiſition by Torture of the Civil Law, to be ſo Abhor'd and Abominable, that they begin with Execution upon the Perſon, and Arreſt him before Judgment.

Romiſh Inquiſition begins with Execution on the Perſon.

Now, that not only Arreſt before Judgment, but *Diſtrictio Pignorum*, or taking of Pledges by diſtreſs is likewiſe Execution, appears clearly, both by Civil and Common Law. As to the firſt, which is *Diſtrictio Pignorum*, or taking Pledges by Diſtreſs, it is expreſs in the Civil Law *C. de Execut. rei Jud.* that on a Sentence for Debt or Damage, the Judg may order Execution to be done by Diſtreſs, or taking the Goods moveable of the Defendant, as Pledges; and if he ſatisfie not the Plaintiff within the ſpace of Two Months after the Diſtreſs is made, then the Officer was to ſell them and ſatisfie the Plaintiff.

As to the Common Law; it appears 4. *H.* 6. 17. & 22. *Aſſ. pl.* 72. That the Execution after Judgment is in the County Court only by Diſtreſs, and keeping the ſame in Pound 'till Judgment be ſatisfied; for they cannot ſell the Diſtreſs; which ſhews that the Common Law eſteemed Diſtreſs an Execution after Judgment, though it had not the Power to ſell the Diſtreſs, as the Civil Law had. That it is an Execution therefore after Judgment, both by Civil and Common Law is clear.

Diſtreſs on the Goods is Execution.

It

It will be next by ſome perhaps enquired, from whom the Original of this moſt Anti-Chriſtian Cuſtom came, of beginning Suits with Diſtreſs, and Attachments (which differ from Diſtreſs in that the one forfeits the Diſtreſs, 9. *H.* 7. 9. for Nonappearance, the other not) *Capiaſſes*, *Latitats*, exaction of Bail, Mainprize, Outlawries in Civil Actions and *Excommunicato Capiendo's*, in all which the Goods of the Defendant being of greater value than the Debt or Treſpaſs, are either ſeized or detained, or what is worſe, Forfeited and Confiſcated, or the Perſon Arreſted, Impriſoned, and ſometimes Starved, ſometimes Poiſon'd, and ſometimes Tortured before there is a Copy given him of any Complaint made againſt him, and before the Plaintiff hath ſo much as taken an Oath of Calumny, that he believes his Complaint True and Juſt, and before Hearing, Probation of Witneſſes, and Judgment? That this moſt inhuman and more than Barbarous Proceeding came not from the old *Romans*, though *Pagans*, appears by what *Alciat* ſays, that not ſo much as the word *Diſtrictus* or *Diſtrictio* (which is to be intended before Judgment) is to be found amongſt any of the Ancient Lawyers; and likewiſe that no ſuch thing as Diſtreſs or taking Pledges, or exacting Bail, caution *judicio Siſti*, *& Judicatum Solvi*, or Arreſt before Judgment, is to be found amongſt thoſe which are left of the Laws of the Twelve Tables: Yet in them theſe are expreſs'd after Judgment, as appears by the Reliques of the ſame, which follow in theſe words:

L. 25. *Si in jus vocet, atq; eat.*

L. 28. *Si vis vocationi fuat teſtamini; igitur em capito.*

L. 31. *Si vindiciam falſam tulit rei, ſi velit is arbitros tres, dato forum Arbitriis fructus, duplione Damna Deciditor.*

L. 33. *Æris confeſſi, rebuſq; jure judicatis, triginta dies juſti Sunto: poſtidea manus endoiectio eſto: in jus ducito nei Judicatum facit, aut quips endo jure em vindicit, ſecum ducito, vincito aut nervo aut compedibus quin Decim pondo, ne minore; aut ſi volet majore vincito. Si volet ſuo vivito in ſuo vivit qui em vinctum habebit, libras farris endo dies dato, ſi volet plus dato.*

Wherein though many words are ſo Antiquated and obſcure as no Interpreter can expound them, yet ſo much may be underſtood from them, (1.) That their *Editio* and *Oblatio Libelli*, by giving the Defendant a Coppy of the Libel, Bill of Complaint, or Declaration, preceded their *vocatio in Jus*, Citation and Summons; for in the Law, *Si in jus vocet, atq; eat*, the word *Atque* ſignifieth *Statim*, preſently, in which ſenſe it is taken in *Leg. filia* 20. *C. de inof. Teſtam.* and in *Virgil.*

——*Atq; illum prono rapit alveus amni.*

Now

Now it had been to no purpoſe when the Defendant had been called to appear before the Judg in Perſon *Statim*, preſently, to anſwer, unleſs the Plaintiff before he had call'd him had made him *Oblatio Libelli*, and given him a Copy of his Bill of Complaint againſt him, and allowed him his *dies juſti*, a fit time for him to deliberate and provide for the ſame, *Ut veniat paratus ad reſpondendum*, when he ſhall be again called to appear in Perſon before the Judg; and without this, if the Judg cauſed him to appear, and caſt him into Priſon, as now Judges do, on lying *Latitats* and falſe Suggeſtions; all the Poor of the Land who are not able to give Bail, and on Forged Outlawries both Poor and Rich, without Bail, and forced him to anſwer to Copies of Declarations not deliver'd, 'till he had been firſt caſt into cloſe Priſon an Hundred Miles from his home, where he had neither Meat nor Drink, nor Money nor Friends, nor Council nor Writings, nor Witneſſes; he had made it impoſſible for ſuch a Priſoner in *Dures* to anſwer, otherwiſe than to grant whatſoever the falſe Suggeſting Plaintiff will Demand of him. And that the *Obligatio Libelli* preceded *in jus vocatio* agrees *Cujac. Lib.* 10. *Obſ.* 10. *&* 11. *Duaren. lib.* 1. *Diſp. c.* 1. *Hermann. vult lib.* 1. *diſcep. c.* 1. *Gæd. ad. l.* 9. *n.* 1. 6. 7. *ff. de verb. ſign.* *Oblatio Libelli* precedes Summons.

(2.) By the Law *ſi vis vocationi ſuæ teſtamini: igitur eum capito*, appears, that after the Defendant had a Copy of the Declaration deliver'd, no *Capias* before Judgment was to iſſue againſt him, without a *Fugam fecit*, or at leaſt an hiding himſelf; and the word *Teſtamini* ſhews there muſt be *Productio teſtium*, Probation by witneſſes of the flight or abſconding, and not a *Latitat* granted on a meer falſe Suggeſtion and Lie, or on the Forgery of an Outlawry, to deſtroy that ineſtimable Right of Liberty, from wrongful Impriſonment, and more valuable than Life it ſelf.

(3.) By the Law *ſi vindiciam falſam tulit, rei ſi velit is Arbitros tres dato forum Arbitriis fructus duplione damnum deciditor*, appears, That the Plaintiffs were Fined *pro falſo clamore* double the value, on a Writ of Enquiry of Damage to a Jury of Three, which (like Commiſſioners for examination of Witneſſes) being equally choſen by the Parties were more able and equal than a numerous Jury of Twelve, all choſen by the Sheriff.

(4.) This being granted, that by the Ancient *Roman* and *Athenian* Laws, *Oblatio Libelli* preceded *vocatio in jus*, and *vocatio in jus* preceded Contumacy, and Probation by Witneſſes preceded Sentence of the ſame, and that Plaintiffs were puniſh'd for falſe Suggeſtions; it follows, there was neither taking of Pledges, Diſtreſs, Attachment, Satisdation, Exaction of Bail, or Arreſt in their Original Proceſs, nor before Judg-

ment, except on Contumacy proved by Witnesses; which shews that neither *Romans* nor *Athenians* were Authors of beginning Law-Suits with Execution.

(5.) It appears by the Law *Æris confessi, rebusq; jure judicatis*, &c. That the *Pagan* Execution it self, after Judgment, was more Just and Merciful, than the Papal and Episcopal is now with us before Judgment; for first they were so far from Arresting before Demand, and before Judgment, that they could not Arrest the Defendant on Hearing, and Trial, and Judgment pass'd against him, without giving him Monition of the Judgment, and till Thirty Days *Justi dies* to provide the Money were expired: but now, on a bare Bond before Judgment, and before so much as a Demand made, they cast into the Goal the Husbandman from his Plow, the Tradesman from his Shop, and the Merchant from the Exchange, without giving the least notice, Thirty or so much as Three Days to provide the Money, whereby they and their Families, their Reputation and Trade are oftentimes destroyed, not only to the ruin of themselves, but great damage of the Publick; for the greatest bulk of Trade of the Nation being driven on Money borrowed on Interest, if it be intended what is borrowed should be applied to Trade, it is impossible that they can pay interest for it to the Creditor, if they must keep it at their Chambers for the Creditors to call it in again on an hour's warning, or as they now do without any warning at all; and imploy it at their Trade they cannot, unless they may have at least warning for so small a pittance of Time as Thirty Days, which the very Heathen allowed their Debtors to be free from Arrest, though Judgment was past against them. This abominable Cruelty of beginning Suits with Execution, came not therefore from the Heathen, but from the pretended Christian *Romish* Bishops and Clerks, against whom the *Heathen* shall rise in Judgment. Now that beginning of Suits with Executing by exacting of Pledges before *Oblatio Libelli*, Bail before Flight, Judgment before Hearing, Distress, Attachment, and Arrest before Judgment, was brought into *Great Britain* by the *Romish* Bishops, appears by these Reasons: (1.) Because the Register of Writs (that old *Romish* Idol; to which more innocent Causes and Persons have been Sacrificed and Destroyed, according to the proportion of the Territory it Commands, than to the *Turkish Alcoran*) is in *Latine*, which is the *Romish* Language; in which Register all the Original Process of Summons, Attachment, and Distringas are composed, for Exacting of Pledges and Bail, Distress, imposing Penalties and Forfeitures, Arrest and Imprisonment in Personal Actions, and *Grand-capes* and *Petty-capes* in real, before Oath of Calumny, *Oblatio Libelli*, Hearing, Probation or Judgment, and in Indictments

All Attachments, Distresses, Exactions of Pledges, Bail, and Arrests before Judgment, are Executions before Judgment, and come from *Romish* Bishops.

dictments by Inquiſition. (2.) Becauſe all old Formalities of Entries and Pleadings, of Inſtruments, and Contracts Publick and Private were Originally in *Latine*, which ſhews they were formed by *Romiſh* Biſhops or their Clerks in their own Language, conform to their *Romiſh* Idol the Regiſter, beginning with Execution, as particularly appears; in all Inſtruments concerning Feudal Juriſdiction are Clauſes and Conventions of Diſtreſs, Reentry, Penalties and Forfeitures, horrible unjuſt, before Oath of Calumny, *Oblatio Libelli*, *dies juſti*, Hearing, Probation, Judgment, or Judg, but the Lord himſelf in his own Caſe, over his Vaſſal. (3.) Becauſe anciently the *Romiſh* Biſhops have been Chancellors in that Court which is *Officina Brevium*, the Shop of Writs, where they are forged; and have been likewiſe chief Judges in the other Courts of the King, keeping all their Proceedings in *Latine*, Court-hand, and Chancery-hand, ſecret from the underſtanding of King and People, whereby they exerciſed what Tyranny and Oppreſſion they pleaſed. (4.) Becauſe they and other Eccleſiaſtical Perſons, as Abbots, Priors, and the like, have Poſſeſs'd the Third part of all the Baronies, Honors, and Mannors in the Land, and, had they not been ſtopt by the Statutes of *Mortmain*, might by this time have got all; this way therefore of taking Diſtreſs, Penalties, and Forfeitures before Judgment, advanced their Intereſt in Tyranny, and made them Arbitrary and abſolute Judges in their own Caſe. (5.) Becauſe anciently the *Romiſh* Biſhops have been, and to the ſhame of Proteſtants ſtill claim to be, in their Eccleſiaſtical Courts Judges of Hereſie; whereby, as the Common Law Judges by their Outlawries, which are Temporal *Excommunicato Capiendos*, they by their *Excommunicato Capiendos*, which are Spiritual Outlawries, have brought in the *Romiſh* Inquiſition, to begin all Suits with Execution before Judgment. (6.) Becauſe the *Greek* Biſhops firſt deſtroyed the Equal Law of the Twelve Tables, *Si in jus vocet atq; eat*, which is before interpreted *Statim eat*, and made it *in jus vocati ſtatim eant, aut ſatisfident*; which Satiſdation included all the Rabble of Diſtreſſes, Pledges, Bail, Mainprize, Arreſts and Impriſoments, before *Oblatio Libelli*, Hearing, Probation, or Judgment, which *Greek* Biſhops were the Inſtruments of that wicked Empreſs *Theodora*, who foiſted into the Laws of *Juſtinian* what they pleaſed, concerning Judicial Proceeding touching *Marriage*, *Filiation*, and *Succeſſion*, and all other matters; and the *Romiſh* Biſhops followed them in their wickedneſs, in whatſoever was for their gain, and brought the ſame, with themſelves and the Language of the Beaſt into *Great Britain* and *Ireland*, to infect with the ſame Plague all Judicatures of theſe Noble Kingdoms. *vid.* How Satiſdation before Judgment came, in the Authorities cited, *Calv. Lex. tit vocare.*

Outlawries and *Excommunicato Capiendos*, and Judgment of Hereſies, the *Romiſh* Inquiſition in Diſguiſe.

They Pledg before Summons; Summon before Copy, Copy before Oath, Punish before Contumacy, Judg before Hearing or Probation, and Arrest before Judgment.

It cannot be here objected, That I proceed partially against Ecclesiastical Judges, seeing the Temporal are here equally Taxed with the same Errors, and I contend with the Vices and not with the Persons of either. Yet so much I may affirm for Truth, and shall after prove against Ecclesiastical Judges, that the Papal and Episcopal Forms of Prepostration of Execution before Judgment, by beginning the Original Process with Attachments, Distresses, Exactions of Pledges, Bail, Mainprize, Penalties, Forfeitures, Confiscations, Arrests and Imprisonments, before a Coppy of the Declaration given, and before Oath of Calumny, Hearing, Probation or Judgment, and Outlawries, and *Excommunicato Capiendos* both before and after Judgment, were Originally brought both in the Ecclesiastical and Temporal Courts of the Kingdom of *Great Britain* and *Ireland* by *Romish* Bishops, and Priests, and Parliaments, in time of Popery, have been so far deceived by them to confirm their Superstitious Formularies in the Temporal Courts in so high a degree, as now the Temporal Judges are not able to Reform, without the Assistance of an Act of Parliament. But I shall first prove, that the said Forms are contrary to the Scriptures, and Anti-Christian. The Texts of Scripture follow.

Job 24. 3. *They drive away the Ass of the Fatherless, and take the Widows Ox for a Pledg.*

Verse 9. *They pluck the Fatherless from the breast, and take a Pledg of the Poor.*

Ezek. 18. 7. *And hath not Oppressed any, but Restored to the Debtour his Pledg.*

Ezek. 33. 15. *If the Wicked restore the Pledg, give again that he had Robbed,*

Amos 2. 8. *And they lay themselves down upon Cloaths laid to Pledg,*

Psal. 37, 21. *The Wicked borroweth, and payeth not again.*

Matth. 5. 25. *Agree with thine Adversary quickly, while thou art in the way with him; lest at any time the Adversary deliver thee to the Judg, and the Judg deliver thee to the Officer, and thou be cast into Prison. Verily I say unto thee, Thou shalt by no means come out thence, till thou hast paid the uttermost Farthing.*

Matth. 18. 15. *If thy Brother trespass against thee, go and tell him his fault.*

fault between thee and him alone; if he ſhall hear thee, thou haſt gained thy Brother. But if he will not hear thee, then take with thee one or two, that in the Mouth of two or three Witneſſes, every word may be eſtabliſhed. And if he ſhall neglect to hear them, tell it unto the Church: but if he neglect to hear the Church, let him be to thee as an Heathen *man and a* Publican. After the Servant who had been forgiven by his Lord Ten Thouſand Talents, Verſe 28. *Went out, and found one of his fellow-ſervants which ought him an Hundred Pence: and he laid hands on him, and took him by the Throat, ſaying, Pay me that thou oweſt. And his fellow-ſervant fell down at his feet, and beſought him, ſaying, Have patience with me, and I will pay thee all. And he would not: but went and caſt him into Priſon, till he ſhould pay the Debt.* Verſe 32. *Then his Lord, after that he had called him, ſaid unto him, O thou wicked Servant, I forgave thee all that Debt, becauſe thou deſiredſt me: Shouldeſt not thou alſo have had compaſſion on thy fellow-ſervant, even as I had pity on thee? And his Lord was wroth, and delivered him to the Tormenters, till he ſhould pay all that was due unto him.*

As to Criminal Proceeding the Texts are,

1 Tim. 5. 19. *Againſt an Elder receive not an Accuſation, unleſs under two or three Witneſſes.*

Numb. 35. 30. *Whoſo killeth any Perſon, the Murderer ſhall be put to death, by the mouth of Witneſſes: but one Witneſs ſhall not Teſtifie againſt any Perſon to cauſe him to die. Moreover, ye ſhall take no ſatisfaction for the life of a Murderer, which is guilty of death, but he ſhall be ſurely put to death.*

Deuter. 17. 8. *If there ariſe a matter too hard for thee in Judgment, between Blood and Blood, between Plea and Plea, and between Stroke and Stroke, being matters of Controverſie within thy Gates: then ſhalt thou ariſe, and get thee up into the place which the Lord thy God ſhall chuſe; And thou ſhalt come unto the Prieſts the* Levites, *and unto the Judg that ſhall be in thoſe days, and enquire, and they ſhall ſhew thee the Sentence of Judgment.*

From all which may be infer'd,

(1.) *That no man ought to be Summon'd before a Judg, till a Copy of the Plaintiffs Declaration be firſt given him.*

For Chriſt ſaith, If thy Brother Treſpaſs againſt thee, go and tell him his Fault between thee and him alone; which is fully performed by giving him a Copy of the Declaration or Bill of Complaint, and without it the ſame cannot be done, nor the full State of the Caſe be Repreſented to him, nor he take time of deliberation for an Anſwer. And from this Precept of Chriſt will follow, firſt, the Ordaining of *Editio & vocatio in jus ſimul ex continenti*, by the Popiſh *Theodorian* Biſhops; in

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the Civil Law is a corruption and destroying of the Excellent Law of the Twelve Tables, *Si in jus vocet atq; eat*, which is already proved to have implied a Preceding *Oblatio Libelli*, and was the clear Law of Nature, and immutable in all Civil Actions.

(2.) That the Law of *Scotland*, of including the Libel in the Summons, though it far excel our Summons by Writs, yet it is not so perfect as the Precepts of Christ, to make the *Oblatio Libelli*, or to give the Copy of the Declaration to the Defendant before Summons; for first, he must be forced to send many times Hundreds of Miles to a Judg to get a Summons, before the Return of which, all the business if there is no Contumacy, may be far better agreed and ended between him and his Brother at home. Secondly, If there is no Contumacy (as there can be none, before a Copy of the Declaration delivered, by which the Demand is made) it is unjust to lay such a Punishment on a Defendant, to run Hundreds of Miles to his great Cost and Trouble in *England*, to appear before a Judg at *Westminster*, and when he comes there, no Bill in *Chancery*, nor any Declaration at Common Law, is put against him. And in *Scotland* to appear at *Edenburgh* at a longer day, when he was ready and tender'd to satisfie his Brother at home in a shorter, and he refused, only to put him to Charge and Vexation. Thirdly, It is unreasonable and unjust, that the Plaintiff should be compell'd to send so far for such a Trivial Formality as the hand of a Judg to his Libell'd Summons, or to expect no Judicial assistance from it, if he *gratis* make *Oblatio Libelli*, as Christ Commands; for if, as is the Modern practice in *Scotland*, the Lords of the Session never read a word of the Libell'd Summons, and they may be Blasphemy or Treason for ought they know, yet they set their hands to them as fast as they can be brought, and I have my self set my hand to Hundreds of them; and that course of Summoning being by Act of Parliament made in time of Popery, which we had no power to alter, I thought that kind of Justice better than none at all: though before *Oblatio Libelli* it serves to no more Use than our *Latitat* and *Subpœna* Offices, and others, to have a pretence of gathering Money for the People for doing nothing, and perhaps (if all Truth were spoken) for doing Mischief. Fourthly, If, as the ancient Practice was of Sir *Thomas More* when he was Chancellor of *England*, who used to read over, himself in Person, every Bill was preser'd in *Chancery*, and consider whether it were just or no, before he would grant a Summons of *Subpœna*; and of *Skene* in *Scotland*, who, as I have been informed there, would likewise read the Bills himself before a Summons was granted, and if he found them not fit, would tear them in pieces, and throw them over the Bar. It hath been therefore to no

purpose

purpoſe for the Plaintiff to have ſent to Judges for Summons, who might ſee that Injuſtice in his Bill which the Defendant perhaps might not ſee, or might be willing to paſs by, if it had been firſt ſhewn to him at home. Fifthly, It is unjuſt for the Plaintiff to make his *Oblatio Libelli* firſt to the Judg, and to get a Summons thereon before he doth it to the Defendant, for the Defendant may, perhaps, if ſhewn him, ſhew the Plaintiff ſo juſt exceptions againſt the Bill, as may ſatisfie the Plaintiff himſelf, and ſave both Parties the Trouble and Coſt of going further to Law; or he may amend his Bill on ſuch exceptions, and if he think it juſt after amended, inſiſt on the ſame further; to ſhew his Bill firſt, therefore, to the Defendant, though his Enemy, if he will except againſt it, is more profitable to the Plaintiff for amendment, than if he ſhewed it his own Councel; for a Friend may never ſhew the Party his Faults as an Enemy will: As it is more Juſt, ſo it is therefore more ſafe, firſt to make the *Oblatio Libelli* to the Defendant, before it be done to the Judg. Sixthly, The *Juſti dies*, or time of Returning an Anſwer, cannot be agreed without great Trouble and Coſt, unleſs there be firſt an *Emparlance* between the Parties, without troubling the Judg. Againſt offend the taking out of Execution on Judgment acknowledged by aſſent, and on Recognizances, and Statutes in *England*, and on Regiſtred Bonds in *Scotland* without Summons, or *Oblatio Libelli*, or Warning, or Demand. Seventhly, Becauſe Judges uſe to take Caution, or *Plegii de proſequendo* of the Plaintiff, and the like Pledges of the Defendant, purpoſely to hinder Agreement according to Chriſt, and to ſet them by the Ears to get in Fees to the Court.

(2.) *That no man ought to be Summon'd before a Judg, until a* Productio Teſtium *firſt made to him.*

For Chriſt ſaith, If he will not hear thee, then take with thee one or two more, that in the Mouth of two or three Witneſſes every word may be Eſtabliſh'd, whence will follow, that the Mock-Probation ſtill falſely mention'd in the end of every Declaration, *Et inde Producit Sectam*, and Summons on Motions and Rules of Courts, founded on the Infamous Credit of *Affidavit*-men, are abominable Reliques of Popery, and Anti-Chriſtian. (1.) Becauſe they are not produced to the Defendant where he dwells, that he may except againſt their Perſons, if he hath cauſe, and if he hath none, he may ſee them Sworn, and if they Swear falſe, he may have his lawful Remedy againſt them. (2.) Becauſe the *Affidavit*-men are ſingle Witneſſes, whereas Chriſt Commands two or three Witneſſes. (3.) They are both ſuch as live in *London* and *Weſtminſter*, and

and such as come out of those Parts, altogether unknown to the Judges and Masters who take their Oaths; if therefore they will proceed on the Testimony of single Witnesses, seeing by the Precept of Christ, *Actor Sequitur forum rei*, and the Plaintiff is to carry his Witnesses to the Defendant; it is far more Just and Equal that the *Affidavit* be either taken by Commission in the Parish where the Defendant lives, or every Minister be Authorized to take the Oath, on notice given to his Parishioner to be present, if he please, at the Taking. (4.) Because generally the *Affidavit*-men are Knights of the Post, and common Swearers for Hire, who will Swear any thing for a Dinner. (5.) Because *Probatio non admittitur in contrarium*, whereby Courts overflow with Perjury. And as is said, *Jer.* 23. 10. *Because of Swearing the Land mourns.*

(3.) *That a Defendant can be guilty of no Contumacy till an* Oblatio Libelli, *and a* Productio Testium *first made to him.*

For Christ says, The Plaintiff is not to tell the Church, till two Refusals made by the Defendant, one to hear him single, the other when he hath produced his Witnesses.

(4.) *That no Pledges or Distress ought to be taken till Judgment.*

For *Ezek.* 18. 7. says, *The Debtour ought to be restored his Pledg.* And Christ Commands on Contumacy shewn by two Refusals, immediately to tell the Church; so he is to do nothing further till the Sentence of the Church is pass'd, and very just; for thus far none hath Judged whether his Cause is just, and his Brother Contumacious, but himself, and he ought not to be Judg in his own Case, and much less be his own Carver of Execution by Pledges and Distresses, on his own Authority, without the Sentence of a Judg. Secondly, Otherwise the Ass of the Fatherless, the Ox of the Widow, and the Pledg of the Poor, would be taken from them without Hearing of their Cause, and the Creditor, Land-lord, and every other Person would be Judges in their own Case, and Carve Execution for themselves. Thirdly, Though the Poor may be able to give Convenotinal Pledges, yet they are not able to give besides Judicial Pledges, when they are enforced to sue for their Conventional, unjustly seized and detained from them; nor though they are able to Mortgage the Right of their little Living, to be seized when they fail paying Interest for the Debt, yet are they not able to leave Possession by which they must live, if the Creditor unjustly enter before a Judgment Declaratory, and a true Account made by him, and a Return of the over-plus, whereto the

the Mortgage amounted above the Debt. So though a Poor man is able, to grant a Rent-charge and a Clauſe of Diſtreſs, if he be in Arere on paying Intereſt for the Debt, yet if the Creditor wrongfully or exceſſively Diſtrain, he is not able on a *Replevin* to give Pledges *de Proſequendo*, and *de Returno habendo* to take a Conventional Diſtreſs therefore, or to make a Conventional Seizure, Entry or Re-entry of, or into Goods or Lands, Pledged for Debt or Rent, or made liable by any Covenant or Clauſe Irritant, to forfeiture for non payment of the ſame, before a Judgment Declaratory of the non payment, and of the value of the Goods to be Diſtrained, and Lands Seized for ſatisfaction of the ſame, is as unjuſt and wicked as to take a Judicial Diſtreſs, Pledg or Forfeiture, before ſuch Judgment paſs'd.

The Laird of *Sauchi* Sued one of his Tenants to make him remove from his Tack or Leaſe, the Deſendant excepted, That he had a Tack, it was replied, That the Tack was null and void, becauſe there was a Clauſe Irritant contained in it, that if the Duty reſerved were not paid, the Tack ſhould be null and void, and that the Duty was not paid; to which was duplied by the Deſendant, that this failure of payment was not yet declared by any Declaratory Sentence of a Judg. The Lords found that there ought to be a Declaratory Sentence of a Judg firſt, before any removal of a Tenant ought to be, though the Clauſe Irritant had been, that the Tack ſhould be null without any Declaratory Sentence. *4th. July*, 1628. Declaratory Sentence of *Scotland.*

(5.) *That no Bail ought to be Exacted before Contumacy or Judgment.*

Firſt, If to Diſtrain dead Goods and Pledges of Cattle is prohibited before Judgment, *à Fortiori* to Exact for Pledges or Sureties the living Bodies of men, is prohibited. Secondly, It is manifeſt Chriſt intended to relieve the oppreſſion of the Poor againſt the Rich, and that none but the Rich are able to give Bail to Tolerate, therefore the Rich, becauſe they can give Bail on every unjuſt Suit of theirs, to Exact Bail of Poor men before Judgment, who are not able to give it, fills Priſons, and deſtroys innumerable Innocent Poor, and leaves their Blood to cry againſt thoſe who Tolerate ſo great an Oppreſſion, as to make Neceſſity Contumacy, and Puniſh the Poor for his Poverty. No leſs abominable is the Practice of Attornies and Clerks with their Writs of Privilege, who will command what Bail they pleaſe, though the Poor man owe them not a farthing, and he being once Arreſted, and not able to give Bail, he muſt therefore Rot or Starve in Gaol, or pay whatever the other will ask, right or wrong. The *Chancery* Clerks and

Officers go a degree beyond these, and will take no Bail but four Subsidy men, and if they can but Arrest the pretended Debtor, will keep him in hold too, till he pleads *Instanter* what they will have, to Ruin him. These are the Prodigious Reliques of Popish Tyranny left in Protestant Courts of Law and Conscience, and translated from *Romish* Ecclesiastical Clerks to *English* Lay-Clerks: It were more just these Privileged men had a Privilege granted to Rob on the High-way, for there honest men would be able to defend themselves against them, but with these two Privileges of theirs, one that they will take whomsoever they please Prisoners, and the other that they will be Sued no where but in their own Court, makes it as difficult to deal with them, as *Turky* Pyrats, who will be Tried by none but their Fellows, nor Sued any where but in *Algier*. How little necessity there is of this horrible Oppression of Exaction of Pledges, Distresses, Bail, Penalties, Forfeitures, and Outlawries, before Judgment, doth easily appear from this, that in the *Chancery* there is none of all these required, and though the Defendants are Richer, and the Causes of far greater value than those in Common Law Courts, yet do the numerous Plaintiffs rather shun the Common Law Courts, and throng thither, choosing to Sue there, than in the other; and certainly if it be truly consider'd, these Exactions of Bail and Outlawries, and Suprizes of Debtors before warning, do but necessitate them to flie from their Creditors, and deceive them of what they would be ready to pay on a fair Demand or warning, and liberty given to come to a just account with Security. This cruel dealing therefore of the Creditor with his Debtor before Judgment, tends not to his Profit, but very much to his Loss, as well as it doth of the Defendant, and many times undoes them both.

No Pledges, Bail, Outlawries, required in *Chancery*.

(6.) *That no Arrest ought to be made before a Judgment, though there is Contumacy.*

This follows from what hath alreadybeen proved, That a Plaintiff ought not to be Witness, Judg, or Executioner thereon in his own Case, and therefore not of the Contumacy of his Brother; but if he is Contumacious, the Plaintiff ought by his Witnesses to make Probation of those matters which are necessary to shew a Contumacy, as (1.) *Oblatio Libelli.* (2.) *Productio Testium.* (3.) His Refusal to answer and satisfie, and thereon obtain a Sentence Declaratory of the Contumacy of the Defendant, and a *Capias* to Arrest him. All Arrests therefore before Judgment, by Pursuivants, Messengers of Arms, Tipstaves, Maces, Sheriffs, or any other, are Reliques of Popery, and contrary to the

Contumacy.

Pursuivants.

Tipstaves.

the Law of God, and of the Land, and indeed are ſo far from having Right to Arreſt before Judgment, that they ought not ſo much as to Summon before an *Oblatio Libelli*, and a *Productio Teſtium*.

(7.) *That though there is a Judgment, yet Chriſt allows no Impriſonment of a Debtor not able to pay; for Diſability is no Contumacy; and Poverty may more often fall on the Righteous than the Wicked.*

The Scripture makes our Demeanour to the Poor in Priſon in this Life, of great concernment to our well or evil Being after Death, as is ſaid, *Matth.* 25. 34. *Then ſhall the King ſay unto them on his Right hand, Come ye Bleſſed of my Father, inherit the Kingdom prepared for you from the Foundation of the World: For I was an hungred, and ye gave me meat: I was thirſty, and ye gave me drink: I was a ſtranger, and ye took me in: Naked, and ye cloathed me: I was ſick, and ye viſited me: I was in Priſon, and ye came unto me. Then ſhall the Righteous anſwer him, ſaying, Lord, when ſaw we thee an hungred, and fed thee? or thirſty, and gave thee drink? When ſaw we thee a ſtranger, and took thee in? or naked, and cloathed thee? Or when ſaw we thee ſick, or in Priſon, and came unto thee? And the King ſhall anſwer, and ſay unto them, Verily I ſay unto you, In as much as ye have done it unto one of the leaſt of theſe my Brethren, ye have done it unto me. Then ſhall he ſay unto them on the Left hand, Depart from me, ye Curſed, into everlaſting Fire, prepared for the Devil and his Angels. For I was an hungred, and ye gave me no meat: I was thirſty, and ye gave me no drink: I was a ſtranger, and ye took me not in: naked, and ye cloathed me not: ſick, and in Priſon, and ye viſited me not. Then ſhall they alſo anſwer him, ſaying, Lord, when ſaw we thee an hungred, or a thirſt, or a ſtranger, or naked, or ſick, or in Priſon, and did not miniſter unto thee? Then ſhall he anſwer them, ſaying, Verily I ſay unto you, in as much as ye did it not to one of the leaſt of theſe, ye did it not to me. And theſe ſhall go away into everlaſting puniſhment: but the Righteous into Life Eternal.* It may be much doubted, what account theſe inferior Judicial Proceedings, of Exactions of Pledges, and Bail before Summons, Outlawries, *Excommunicato Capiendo's*, Penalties, Forfeitures, Confiſcations, Arreſts, and Impriſonment before Judgment, will be able to give at the Supream Judgment, they being all point Blank contrary to the Judicial Precepts of Chriſt. And this Humanity and Mercy to Priſoners that are Poor and unable to pay, hath ſo far prevailed amongſt moſt Nations, and with the Civil Law, and with the Law of *Scotland*, that in all theſe, if a Priſoner in Execution for Debt makes a *Ceſſio Bonorum*, that is, aſſigns his whole *ceſſio Bonorum*

Eſtate he hath left, by Inventary on Oath to the Creditor, he ought to be ſet at liberty; and certainly, the Arreſting of Debtors without giving warning, or time neceſſary, and who are not able to pay before Judgment, or detaining them in Priſon after Judgment, is not only, as hath been already ſaid, hurtful to the Creditor himſelf, but to the Publick, the ſame being deſtructive to Trade, and likewiſe to the Peace; for Civil Wars and Seditions have been cauſed both in the *Grecian*, *Roman*, and many other Commonwealths, by the Cruel Proſecution and Impriſonments by Creditors of their Debtors; and I remember we received often advertiſement from our Army in *Scotland*, to deſire us to reſtrain our Letters of *Caption* from Arreſts of Debtors, and that we fill'd the oppoſite Army who were then in Hoſtility againſt us, with greater Recruits of Debtors, who fled from Arreſts, than they had been ever able of their Power to have done, and of Debtors ſo Potent (for the Privilege of Peers to be free from Arreſt, was then taken away) as drew multitudes with them to the Hills, who would, if ſecured from Arreſt, have all ſtayed quiet Neuters at home.

(8.) *That in caſe of Contumacy of the Debtors, Chriſt allows both to take Pledges, Arreſt and Impriſon him after Judgment.*

(9.) *That he allows not, though after Judgment, to detain the Debtor in Priſon for Penalties and Forfeitures, above the value of the Debt and Damage.*

One ſingle Judg. (10.) *That he allows on lawful Probation and Judgment, Impriſonment to be by one ſingle Judg.*

For he ſays in the Singular Number, and the Judg deliver thee to the Officer, and thou be caſt into Priſon, Verily I ſay unto thee, thou ſhalt by no means come out thence, till thou haſt paid the utmoſt farthing. And at that time the *Roman* Judges both at *Rome*, and in *Judæa*, ſate on ſingle Tribunals in Courts by themſelves, and not with aſſociates: *Judices delegati à principe fuerunt* 12. *in Civitate* Romana, *Octo Erant Minores, & Quatuor Majores, & quilibet ſedebat in ſuo Prætorio in Baſilica, gl. in Rub. & in* 9. *Rebus in Authent. de Judicibus in Collat.* 6. In the City of *Rome* there were Twelve Judges Delegates made by the Emperor, Eight Leſſer, and Four Greater, and every one of them ſate in his ſeveral Court in the Palace Hall. This Chriſt ſeems to allude to *Matth.* 19. 28. *When the Son of Man ſhall ſit in the Throne of his Glory, ye alſo ſhall ſit upon Twelve Thrones, Judging the Twelve Tribes*

Tribes of Iſrael. In the like manner they placed ſingle Judges in the Provinces; as, *Herod*, *Felix*, *Feſtus*, and others, were all ſingle Judges within their ſeveral Territories of *Judæa*. And theſe ſingle Judges were not only, (1.) Judges of Temporals, but Spirituals, till the Superſtition of the Emperors divided the Supream Juriſdiction into Epiſcopal and Imperial, giving the Supremacy to the Epiſcopal; for before the Emperors, the *Roman* Law was *Rex Sacrorum Præſes eſto*, as appears by the Laws of *Romulus* and *Numa*, of whom, one was an *Augur* and King, which was then their higheſt kind of Prophet, and above a Prieſt, and the other a Sacrificer and a King. The Senate after the Expulſion of *Tarquin*, took upon themſelves to be *Præſides Sacrorum*, and the Emperors after they had overtopt the Senate, made themſelves High-Prieſts and Emperors, ſo did *Julius Cæſar*, ſo did *Auguſtus* and their Succeſſors, till as is before ſaid, Superſtition again divided the Imperial Juriſdiction. But likewiſe (2.) the ſame Judg was of Civils and Criminals, and (3.) the ſame one Judg was of Fact, Law, and Equity, and there was not amongſt, nor in any Empire in the World, that unneceſſary and unjuſt diſtinction of *Chancery*, Common Law, and Juries.

It is not here objected againſt the Biſhops, that they place more Judges than one in their Spiritual Courts, or any Court where they can get Juriſdiction, we know the contrary; and too Ambitious and Subtle they were to draw any ſuch Inconvenience on themſelves, but they rather ſtudied to lay that Clog of unneceſſary Number on the Layity in the Common Law Courts, they themſelves having uſually been ſole Judges in the Spiritual Courts, concerning Marriage, Teſtaments, and Tiths, under the name of Judg Spiritual or Eccleſiaſtical; and in the *Chancery*, concerning other Temporal matters, under the name of the Judg of Conſcience and Equity, and in their Inquiſitions Criminal, concerning matters of Life and Death, under the name of the Judg of Hereſie, have made themſelves abſolute Monarchs over the Religion, Juſtice, Eſtates and Lives of the People, and Clogg'd them with numerous Judges and Juries, that they might not be able to lift an hand, or move a Tongue againſt them, in the ſame manner as the Senate did deceive the People of *Rome*, by multiplying their Tribunes under pretence of favour to them, to no other intent, but that the Defenſors of their Liberty might be more eaſily divided againſt themſelves, and weaker to oppoſe the Senate. I ſhall only give a touch of the Reaſons, why more Judges than one ought not to be admitted in any one Court, except in a Court of Appeal, or in Judges equally Elected by the Parties, as Arbitrators, and Commiſſioners for Examination of Witneſſes uſe to be.

(1.) Be-

(1.) Because as to Election of the Judges, it is easier to find one Man of Ability and Integrity fit to be a Judg, than Twelve.

Reasons why more Judges than one ought not to be admitted in one Court.

(2.) The hearing of a multitude of Causes is extream tedious and toilsome, where there is therefore a numerous Court, they are apt to shift their Collar from the labour, and leave all to the President, while they either talk with one another more pleasant discourse, or let their Wits run a wool-gathering, or plainly, nod and sleep upon the Bench.

(3.) Admit they do attend the Cause (which they very rarely do except for a Friend, or against an Enemy) they may vary in their Votes, whereby no Judgment can be given as in a *Ceux que Droit* Case, where are many Competitors for the same thing, *A. B. C. D.* the first Judg may be for *A.* the second for *B.* the third for *C.* the fourth for *D.* whereby no Judgment can be given.

(4.) In a General Issue, or Special Issue, some Jurors may be of the Conscience that such Witnesses are not above Exception, nor to be credited, others that they are; others, that such Evidence doth not conduce to the Issue; others, that it doth; whereby no Verdict could be given, were they not compell'd by that unconscionable way of starving them, to agree against their Consciences.

(5.) If we come from Judges of the Fact, to Judges of the Law, who allow themselves better Quarters than the other, and will not be kept without Meat, Drink, Fire, or Candle-light, till they pass their Sentence; yet the Courts in *Westminster* consisting of the equal number of Four Judges, are often divided, two against two, and what if the Vote of the Chief Justice bear it against the other, yet one mans opinion being as good as another, yea the Puisne Justice being oftentimes of greater Age and Ability than the Chief, his Sentence will not carry the Reputation of Justice, neither may it be thought worth the Labour and Cost to have an Associate joined with him, if his Vote must be null'd by the others, he had been better at first sate and Sentenced alone; and of more esteem his Sentence would have been, had it never been opposed by a contrary Sentence of greater esteem than that, to help which, there hath been sometime added a Fifth Judg in *England*, and in *Scotland*, where the number of the Lords of the Session or Judges was Fifteen, with a *Numero Deus Impare gaudet*, but in neither of these is this happy Imparity so much to be found, as in one who cannot be divided in the least proportion against himself, whereas Four may be divided, Two against Two; and Fifteen, Eight against Seven; which will leave a Sentence very Instable and Suspicious, for many times the Minor Party are the Melior.

(6.) In

(6.) In a numerous Court they may all vary in the state of the Question to be Voted, if the President should have Power to put what Question to the Vote he pleaseth, if he propose either a General Issue or State of the Question, the Residue may each raise his Special Question, which will need a Decision before the General can be Voted, as a Jury often do in a Special Verdict: if the President propose a Special Issue or State of the Question, the Residue again may every one raise his particular or Individual State of the Question, and think the Special cannot be Voted till the particular be decided, whereby they will be able no more to agree in the Special than the General, unless used as a Jury; none of which Inconveniences can fall out in a single Judg, but he easily gives his Sentence in the *Roman* manner, either *Absolvo*, or *Condemno*, or *Non liquet*; in *England* they use to send two Judges in every Circuit, because one sits on Civil Causes in the *Nisi prius* side by himself, and the other on Criminals, in the Crown side of the Town-Hall where they come, by himself, which fashion being imitated in *Scotland*, and two *English* Judges usually in every one of those Circuits, being sent to sit both together in one Criminal Court, (for there are no *Nisi Priuses* or Tryals of Civil Actions in the Circuits of *Scotland*) proved inconvenient, and though but two, they often differing one with another, left Business not done, or at least much delayed; whereas the Custom of *Scotland* before was much better, who used to send but one Judg at a time in their Circuits, or Justice Eir, whom they call the Justice General.

(7.) Where Justice is appointed to be done by a *Quorum*, it is extream difficult, and many times impossible to get them together; that this Clog upon Civil Proceedings was brought in by the *Romish* Bishops to the same intention which is before mention'd, to weaken the *Roman* Tribunes, appears from the very name, that 'tis *Latine*, and the effect of it destructive to Justice, for wheresoever a Justice of Peace is limited to Act single without a *Quorum*, he is as good as (to that matter) disabled to Act at all, especially for the Poor, who have most need of them, and are not able to draw *Quorums* together, as the Rich may. In no less danger is the Publick safety of his Majesty and his Protestant Subjects, by Restraining or at least making doubtful the Authority of the Sheriff (who is his Majesties Lieutenant Sworn, and Vice Consul of his Province or County) to oppose a Rebellion or Invasion without a *Quorum* of Deputy Lieutenants, or Justices of Peace, who though Persons of great Honour, Ability, and Valour, to serve their King and Country, yet if Fetter'd together in *Quorums*, like Plurality of Generals in an Army, by how much of higher Courage and Conduct they are, by so

Restraining Justices of Peace to *Quorums*, destroys Justice.

To restrain Sheriffs by a *Quorum*, dangerous to Publick safety.

so much the more are they apt by Ambitious Emulation to cross one another, and bring the Army in confusion whom to follow. An Example of which happen'd in the Alarm in *Dorset*, *Decemb.* 9*th.* 1678. of a Foreign Enemy landed on that Coast, which I have the more Reason to remember, happening to have been prickt Sheriff, but not Sworn for that County; when as soon as the noise was spread, some ran to the Sheriff, some to one Deputy Lieutenant, some to another, some to one Justice of Peace, some to another, some gathered together *East*, some *West*, some *North*, with great Courage and Resolution to Fight the Enemy wherever they found him; but in such a Confusion, they knew not who was to Command, or who to Obey, and pity 'twas to see so many stout men so unarmed, undisciplined, and unprovided as they were; and certainly, if they are suffer'd so to continue in that and other Countries, it is impossible for the Protestant not be Surprized by whatsoever Rebellion the Native, or Invasion the Foreign Papist (unless God as he hath hitherto done, discover their Plots by Miracle) Design and Attempt; neither doth appear any more ordinary way of Remedy, than freeing the Militia from *Quorums*, who without their default may have Popish Spies unknown crept in amongst them, (which is impossible for any but a sing'le Person to prevent) to discover their Councels, and cross all their Actings, and will be utterly disabled either to Arm, Train, or Discipline a Militia, as were necessary; all which would be easily done by a Sheriff who is a single Person, if his Ancient Legal Authority were, as is most fit, restored to him to Act singly for the preservation of his Country without a *Quorum*, and his Honour and Interest would oblige him, had he undisputable Authority to Muster, Arm, Train and Discipline those Men to the height, whom he himself, if an Enemy appears in his Year, is to lead in Person against him.

(8.) The greater the number of Judges, the greater the delay in the Proceedings.

(9.) The greater number of Judges, the more difficult to obtain Remedy against those of them who Judg wrong, for they conceal their names, as the Lords of the Session of *Scotland*, being Fifteen, and sometimes Eighteen, compel the President to sign their Sentence in his name, *A. B. I. P. C.* that is, *in præsentia Curiæ*, though it be contrary to his Vote, whereby it is as impossible to discover who gave the wrong Sentence, as 'tis in a Jury who gave the wrong Verdict deliver'd by the Mouth of their Foreman. So in *Athens*, the Court of the *Areopagites* were in number Twelve, and they gave their Sentence into a Balloting Box, by Black Beans, and White Beans, whereby it

was

was impoſſible to know who gave the unjuſt Sentence, on which *Plutarch* mentions a paſſage of *Alcibiades*, who being ſent for home out of *Sicily* to *Athens* to be queſtion'd for his Life, *Fugam fecit*; and being askt by one, ſaying, Wilt thou not truſt thy own Countrey who begat thee, to be thy Judg? No, quoth he, nor her who brought me forth, leſt ſhe being Ignorant, and not conceiving the Truth, miſtake a Black Bean for a White. Amongſt others was the Cuſtom to do it with Black and White Stones, as *Ovid*,

Mos erat Antiquis niveis atriſq; lapillis,
His damnare reos, illis abſolvere culpa.

They Sentenced with Stones of Black and White,
That know thou mightſt not who Judged Wrong or Right.

(10.) The Appeal muſt be to double the number, as from a Jury of Twelve, to a Jury of Four and Twenty, which makes double the danger amongſt ſo many, they all concealing their Names in giving their Verdict, as well as the firſt Jury.

(11.) When a Juriſdiction is divided to two Judges, which might have been exerciſed by one, by the Interfereing of the divided Juriſdictions a man is pull'd to pieces, to pay Tribute for the ſame Cauſe to both; as between the *Chancery* and the Common Law Courts, between the *Kings-Bench*, and *Common-Pleas*, one on Indictment of Treſpaſs, the other for Action of Treſpaſs, for the ſame offence; ſo between the Common Law Courts, and the Epiſcopal Courts, a man is not only put to double Coſts, but is twice puniſh'd for the ſame offence, and all Juriſdictions in the hands of ſeveral Judges will interfere, except ſuch as are divided by Territory, and no other reſpect, as the Juriſdiction of one County-Court is divided from another by Territory, the County Palatines from the *Weſtminſter* Courts by the Territory bounding them, the Admiralty from the Common Law Courts by the Territory cover'd with the Sea.

(12.) Where one Judg is ſufficient to perform the Office of many, with greater Expedition and Juſtice, a multitude of Judges muſt be then a vaſt Charge to the Publick, and a Prejudice; as, if to Juſtice the *Romans* had appointed Twelve Judges for every Province, where one alone diſcharged the ſame, it had been enough to have exhauſted the Treaſure of an Empire; it is manifeſt, that but three Judges, only in *Weſtminſter*, one in the *Kings-Bench*, the other in the *Common-Pleas*, and the third in the *Exchequer*, let them have but the Juriſdiction of

Fact, Law and Equity, as they ought to have, may with as exact Juſtice and greater Expedition than now is done, diſcharge all the Offices of the Twelve Judges of the *Kings-Bench*, *Common-Pleas*, and *Exchequer*, ſave the labour of the Prerogative Court of Arches, Court of Audience, Court of Faculties, Court of Peculiars, Conſiſtory Courts, Court of the Arch-Deacon, or his Commiſſary, the Court of Delegates, and all Epiſcopal Courts and Offices, and likewiſe ſave the Labour and Charge of a diſtinct *Chancery*, and of all original Writs, and of all Commiſſions of Rebellion, and of all Outlawries, of all the intolerable Slavery of Sheriffs in making Pannels, and of Free-holders ſerving in Juries, and of *Niſi Prinſes*, and of Councels ſpeaking to matters of Fact before Juries. And that three Judges are ſufficient to do this, and many matters more, I ſpeak by experience; for there were but four *Engliſh* Judges ſent into *Scotland*, and ſometimes there were but three, and ſometimes but two, there the other ſerving in Parliaments, as they fell out, and occaſion required, and we diſcharged all the Offices of Lords of the Seſſion, Lords of the *Exchequer*, and of the Juſtitiar General in his Juſtice-Eir, and in his particular Juſtice-Courts, which did anſwer all the Offices and Power of the Judges in *Weſtminſter*, of the *Chancery*, *Kings-Bench*, *Common-Pleas*, and *Exchequer*, and of the Juſtices of Gaol-Delivery in their Circuit, and beſides theſe, we Diſcharged the Commiſſion for Plantation of Kirks through all *Scotland*, and were Viſitors of the Univerſities; there were Judges likewiſe of the Seiſures of all Ships except *Engliſh*, Importing any Goods of the Production of *Aſia*, *Africa*, *America*, or *Europe*, contrary to an Act made 1651. *Cap.* 22. for Increaſe of Shipping, and encouragement of Navigation; we likewiſe Diſcharged a Commiſſion of Claims, and a Commiſſion for moderating the Fines laid on Perſons who had been in Hoſtility, to a Third part; we likewiſe Diſcharged a Commiſſion to Elect all Chief Officers in the Boroughs, and made all the Sheriffs of *Scotland*; yet had we not above Six Hundred Pound *per Annum* for all this, and about Two Hundred Pounds to bear the Charge of a Circuit, which was no profit to us, but ſpent in entertainments for the Publick Honour; neither did we take any Preſent, Treat, or Entertainment from the Sheriffs, though of our own making, and much leſs any Bribe, or ſo much as *Eſculenta*, or *Poculenta* from them, or any other; now that which made it poſſible to us to Diſcharge ſo many Courts, Offices and Commiſſions, was, that we were ſaved the labour of having Cauſes toſſed and tumbled from *Chancery* to Common Law, the *Chancery* and Common Law being there united, and Pleas of Equity admitted in the ſame Court, and there being no Juries

ries in Civil Actions, the ſame Perſons were Judges of Fact, Law and Equity; another cauſe was, that there were no Original Writs, but the more compendious and juſt way of Summons uſed, by ſerving the Defendant with a Copy of the Declaration; another cauſe was, that Councel could not ſpeak to matter of Fact in Civil Actions before Juries, or at *Niſi Prius's*, there being none, nor was ſo much as one of them ſuffer'd to ſpeak or appear at the Bar when the Depoſitions of Witneſſes are Adviſing or Reading, as they do with us at *Chancery*-Hearings, to the intolerable charge of Suitors, and deſtruction of Juſtice and Equity; another cauſe was, that the Councel firſt excepted to the Law, which we call a Demurrer, and after that to the Fact, which we call a Plea, and had that liberty given, both to demur and plead, which kept the way ſo clear before them, that they had never any Delays by Jeofails, Repleaders, Arreſts of Judgment, or Writs of Error; another cauſe was, that both Parties and Advocates took the Oath of Calumny, that they believed their Allegiance juſt and true, *Illud juretur quod lis ſibi juſta videtur*, which Oath keeps their Allegiances clean from falſity, that I never found ſo much as one Fiction in all their judicial Proceedings; and if the ſame Oath were but taken here as there, I believe there would not one Bill in *Chancery*, or Declaration at Common Law come in for Twenty, which now are thruſt in by heaps; many other cauſes there are, which leſſen the labour of a Judg, and of the Suitors, which for Brevity I omit; all which ſhew the Prudence of that Noble Kingdom, where the People enjoy ſo great Juſtice with ſo little Coſt and Contention; Laſtly, we could have done more Buſineſs than we did, had we been ſet to Act as the *Roman* Judges, every one ſingle, without Aſſociates in a Court by himſelf; and how great an Addition to the Publick Treaſury, as well as advantage to Juſtice, the leſſening the number of Judges, and turning Fees to Salary will cauſe, is already mention'd.

A Satyr againſt the Cruel Prepoſteration of Eccleſiaſtical and Temporal Courts in Judicial Proceedings, contrary to the Precept of Chriſt, Matth. 18. 15.

AND will you never learn the skill,
Which firſt Subpœna is, or Bill,
Or foremoſt know with all your wit
If Declaration is, or writ,
Or which precede ſhould in your Tale,
The *Capias* or Original?

Y u which is best who make a pause,
To Sentence first, or hear the Cause,
With Execution who begin
Before a Judgment, or a Sin,
Who grinde and eat the Poor distrest
With Tongue and Teeth of *Romish* Beast?
For Grace, in *Anglice't.* who curse;
The Rent was bad, the Patch is worse:
Who have no Summons but Surprize,
Who have no Laws but Treacheries:
Do you not know there is a Cry
Gone up against your Cruelty?
The Prince himself of Righteousness,
So foul Oppressions to suppress,
Descended hath on Earthly Globe
And glorious Dy'd his Scarlet Robe
In his own blood, to keep the Peace,
And from your Dungeons to release.
12 Apostles. Twelve Trumpets hear, whose Silver sound
Doth from the *East* to *West* rebound,
Proclaim'd the Sacred Edict have,
And Penalty, whence none can save;
Which lest to you should be in vain,
Ye Adders deaf, hear it again.
If Thee, thy Brother, or thy Friend,
Or Enemy, hap to offend;
See thou to warn him do not grudg
Twice at the least without a Judg,
And the last time, see thou no less
Shew him than thy two Witnesses,
Or three, to make the Fact appear,
If he shall doubt, to him more clear.
Nor shalt thou him for any thing
Unto the Seat of Judgment bring,
Untill he *Litis Contestate,*
Or shew a Contumacious hate;
That, if thou canst, thou may'st him prove,
Thus first at home to win by Love.
Let every Plaintiff thus his Suit
Begin, or be for ever mute,

No

No form of Striſe ſhall be but this,
Our expreſs will and pleaſure is
The Nations Bow, and ſtruck with Awe,
Adore the Juſtice of the Law,
And to the dread Tribunal run,
High as the Clouds, bright as the Sun,
With loud Appeals, and further will
Upon this Statute draw their Bill,
Both of Indictment and Complaint,
And of theſe Crimes you thus attaint:
That againſt this Divineſt Act,
More Fees and greater to exact
The furious Plaintiff falſe or true,
While hot you bind him to purſue,
The ſlow Defendant wrong or right,
You Bail or Goal to make him fight,
And Fines on Concords heavy lay,
To make them your unhappy prey;
The Debtor travailing to find
The Creditor with honeſt mind,
Your Outlawries ambuſh the way,
And will not ſuffer him to pay,
But in your Toils you take him there,
And bind him like a ſilly Dear,
Or (what doth make him as forlorn)
To death you hunt him with the Horn,
To make his Skin and Carcaſs yours,
You cheat both him and Creditors,
And while his Plaint each ſadly tells,
You take the Fiſh and leave the Shells.
Thus Innocents you lay in Chains,
Before they know who 'tis complains,
Or what 'tis for; nor ſhall they ſee't,
Till all Extortion's paid by Sheet.
You lay Imbargues, and Prizes take,
Before the War proclaimed you make,
And Right by Battle try, and Wounds
Mortal, before the Trumpet ſounds;
Your Hell-hounds hunt without a noiſe,
Your Snake not rattles, but deſtroys;

There's

There's nothing true, and nothing Sworn,
Till Justice is to pieces torn,
And you who cite not, but infest us
With your *Excessus Manifestus*,
And us torment with great unfitness,
Because you will not name the Witness,
Your *Ipso Facto's* make us wonder,
At Thunderbolts without a Thunder,
And Bodies Judg in Hell to cast
Before the Judgment day is past,
And deathless Souls make pale and wan,
Because you Curse before you Ban.
No Plea deceives the Judg on high,
What will you do, stand mute or flie?
All rather, or, who most repents,
Burn Popish Forms and Presidents;
Is it not better then to turn
To Flames, than you your selves to burn?
Some way with speed appease his Ire,
Your pain proclaimed is, Hell and Fire.

Dr. *Cousins* writes in defence of suppressing the names of Witnesses, Accusers. Excommunication *ipso facto* without Citation.

Of Summons to answer before a Copy given of what is required to be answer'd.

This is in *Scotland* provided for by Act of Parliament, and no man is troubled to appear before any Judg to answer, before by their Libell'd Summons a Copy is deliver'd to the Person, or affixed at the Door of his dwelling House, containing all the matters at large to which his answer is required; and though the People of *England* are not yet so happy as to enjoy so great a Privilege, on which those invaluable Treasures of their Liberty and Propriety depend, yet every Attorny and Clerk of a Court hath it, and is free from giving appearance before a Judg, or being Arrested, till a Copy of the Declaration first deliver'd him, and Judgment pass'd against him, *Attor. Ac.* 28. The reason why these Lay-Clerks, who are Successors in Courts to the old *Romish* Spiritual Clerk, Monopolize this from the whole People only to themselves, is Filthy Lucre: For first, if the Plaintiff were compell'd, as he ought to be, to make *Oblatio Libelli* to the Defendant, by giving or sending a Copy of his Bill in *Chancery*, or of his Declaration at Common Law, to the Defendant at his dwelling House, and

and ſo likewiſe the Defendant bound to return his Anſwer Sealed up, directed to be left for the Plaintiff in ſuch Court, having Juriſdiction of the Cauſe, as the Plaintiff deſired, within Fifteen Days after the Service of the Copy at the dwelling Houſe, to be by the Officer of the Court deliver'd Sealed to the Attorney of the Plaintiff when he demands the ſame, and the like done on Rep'y, Duply, Triply and Quadruply, and all Exceptions of Fact or Law, Poſtulations and Motions of either Party, both on matters principal and incident, till there be a Contumacy to return Anſwer, or a *Litiscontestation* made, and a Commiſſion deſired to examine Witneſſes and the Parties for Probation, this would cauſe all thoſe little Shreds of Sheep-skins which ſo unneceſſarily torment the Countrey, and the dead Pots to be laid aſide, as the Popiſh *Agnuſſes Dei*, or rather *Agnuſſes Diaboli* were, and ſo the Succeſſors to the Popiſh Clerks would loſe their Fees in the one as well as the other, to the great joy of all the Proteſtants. (2.) What is worſe, they would loſe their Eight pence *per* Sheet for but Eight words in a Line, and Fifteen Lines in a Sheet in *Chancery*; and for Six half words in a Line with a Daſh, and Twelve Lines in a Sheet at Common Law, all which a Boy would far better tranſcribe for a Peny *per* Sheet; for want of which *Oblatio Libelli*, by the Plaintiff, a Rich man will of purpoſe draw his Bill in *Chancery*, and ſtuff it with nothing but Falſities ſo long to multiply the Sheets againſt a Poor man, that it will coſt him many times Three or Four Pounds for a Tranſcript, for which he muſt ſend an Hundred Miles beſides, before he ſhall know what he muſt Anſwer. So that the Rich need do nothing elſe to undo the Poor but ſuggeſt and throw him into the Lions Dens of *Chancery*, Common Law and *Chequer*-Clerks, for Copies of thoſe Legends of Lies they themſelves invented; whereas, if theſe rich and vexatious Plaintiffs were compell'd to ſerve Defendants by ſending them from their Pallaces, but a Copy to their poor dwelling Houſes or Cottages, what their wills and pleaſures are to have right or wrong, they would pay as far as they were able, rather than if they told them they ſhould firſt go ſo far to Clerks to buy Copies of their Will and Pleaſure before they would vouchſafe to reveal the ſame, and after be leſs able to pay than before. (3.) They would loſe all the Gains of thoſe unneceſſary and hurtful Entries and Inrollments of the Bills, Declarations and Pleas of the Parties, in thoſe huge heaps of Mouldy Rolls, wherein it is eaſie for them to forge what they pleaſe; for no Averment is allowed againſt Clerks and their Records, which ſhould be far better and more Authentick, were the Copies delivered Signed by the Parties themſelves, and only filed orderly as received from the Parties, and not Enter'd nor Inroll'd by

by the Clerks, but kept by Filazers. (4.) They would loſe all the Gains *de Temere Litigantibus*, which is more than they have from Suitors which Sue of neceſſity and for juſt Cauſe, and would not have one Suit in Ten which they now have before them; for the Countreyman, where the Writ is ſerved before the Bill or Declaration, think they ſhall Conquer preſently their Adverſary, if they but Arreſt, Outlaw, or have a Commiſſion of Rebellion againſt him; whereby they are encouraged by Attornies to ruſh blindly into unwarrantable Suits, which many times undo them: Whereas if the Law were, as it ought to be, by the Precept of Chriſt, That every Plaintiff ſhould firſt ſend a Copy of his Bill to the Defendant, and hear his Exceptions againſt it, or find his Contumacy, before he Summon'd him before a Judg, he would, before he would raſhly engage himſelf in Law-Suits, conſult Councel, and have his Bill or Declaration drawn by them, and hear the Exceptions of his Adverſary againſt it, after which, there would not one of Twenty dare run headlong on a wrong Suit, except Perſons extreamly Litigious and ſhameleſs: Whereas now on Summons and Arreſts tolerated before a Copy of the Bill, or Declaration given the Defendant, vexatious Contentions both in *Chancery* and Common Law are infinite and endleſs.

Of giving a Copy before an Oath of Calumny, That he who gives it, believes the ſame true and juſt.

The Oath of Calumny may by the Civil Law be required, not only of the Parties Litigant, but of their Advocates and Procurators, who are in our Language their Councellors and Attornies, and the ſame is appointed by an Act of Parliament of *Scotland*, the Practice of the Courts there, and the ſame is done not only to the Bill, but to all parts of Proceſs alledged either by Plaintiff or Defendant, and is of excellent uſe to clear thoſe Contagious Plagues and Peſts of Judicial Proceedings, Fictions and Falſities, and to reſtore Truth, which is impoſſible to be kept alive in Religion or Juſtice, without aboliſhing the other.

The Cauſes which introduce Fictions and Falſities into Judicial Proceeding are Four: One, the not uſing the Oath of Calumny: The Second, the not admitting Averment or Probation to the contrary: The Third, the not giving the Adverſe Party notice of the time and place the Swearer is appointed to be Sworn, and liberty to be there preſent himſelf, or by his Commiſſioners to except againſt him

him if he have cauſe. The Fourth is denial of Travers, and Contrary Probation to all that is doubted to be falſe. In the Civil Law there was but one Fiction, which was *Fictio Poſtliminii*; the occaſion whereof was, the *Romans*, to incite their Soldiers to Conquer or Die, which is to take no Quarter, toucht by *Virgil*, *Jaciat ſi quem fati ſors dura premit*, and *Horace*, *p.* 75. *Si non perit inmiſerabilis captiva pubes*; If Captive Youth ſhould not be ſuffer'd to periſh without Pity and Redemption, it would, ſaith he, be a pernitious Example to Poſterity, had this Cruel Law or Cuſtom, That who was a Captive, loſt the Rights of a Citizen; and who died a Captive in the Power of the Enemy, his Eſtate ſhould be confiſcated to the Publick Treaſury, and he ſhould have no Heir to ſucceed him. *ff. de Captiv. & poſtlimin.* To abate the rigor and ſeverity of this Law, the Judges helped the Captive by a Fiction, feigning, that he was never taken Captive, but always remained in the City; and the Legiſlative, in imitation of the Judges, that they might the leſs be taken notice of to derogate from their Military Diſcipline, ſtretched the former Fiction a little further, and enacted by their *Lex Cornelia*, in favour of the Heir whoſe Father happen'd to die Captive to the Enemy, (a Charitable Fiction, not to puniſh the Child for the Fathers offence) that the Father died the next hour before he was ſuppoſed to have been taken Captive; *L. Si is qui pro Emptore in addit. marg. de Uſucapio*. And like that of the Midwives of *Egypt*, to preſerve young Children from Deſtruction, ſeems excuſable, if it was not poſſible to do it any way elſe: but theſe Epiſcopal Fictions, That Marriage is of Souls, not Bodies; of Spouſes, not Wives; begetting of Children is by Husbands abſent within the four Seas, not by Adulterers within the Spouſes Bed: That Sons are not of the blood or kin to the Father who begot them, but of him of whom the Biſhop will pleaſe to certifie them: theſe are not *Mendacia Officioſa*, but *Pernitioſa*, not to preſerve Children, but to deſtroy them; and not only thoſe of Subjects, but of their Prince, though not captived in War, yet exiled by War, by which it was impoſſible to uſe the Epiſcopal Ceremonies of Common Prayer-Books in Marriage, or without danger of his Life to Marry otherwiſe than by the Moral Law of God.

No Digreſſion to father on Biſhops the Fictions and Prepoſterations of Common Law, as well as Spiritual Judges.

And let it not ſeem here a Digreſſion, that I am enforced to Father on *Romiſh* Biſhops not only all the pernitious Fictions and Prepoſterations in Judicial Proceedings of Spiritual, but likewiſe of Temporal Courts, and to make it part of the Exception againſt them, That they are not fit Judges of *Marriage*, *Filiation*, *Aliment* and *Succeſſion*. (1.) Becauſe *Romiſh* Biſhops, as is already ſhewn, were the Formers of all the Common Law Writs in the Regiſter, and Forms of Judicial Proceedings

ceedings in the Book of Entries, and the Compile of the Common Laws was truſted to *Britton* a Biſhop, as well as the Forms of the Citations, Libells, Litiscontestations, Compurgations, Excommunications, and Provincial Laws and Canons were to other Biſhops, and the Biſhops have been the chief Judges in the Common Law Courts of *Weſtminſter*, and Chancellors in the *Chancery*, and have rid the Circuit with the Earls in the Countries, and after them with the Sheriffs; which Earls and other Lay-Judges in time of Popery were only Aſſeſſors or Executioners of the Sentence of the Biſhop, and he only the pretended infallible Oracle both of Law and Goſpel to Judg how he pleaſed. (2.) Becauſe what is a good exception againſt a Common Law Judg, is a good exception againſt a Spiritual Judg; and what Fiction is a good exception againſt *Succeſſion* by the Verdict of the Jury, is a good exception againſt *Succeſſion* by the Certificate of a Biſhop. (3.) Becauſe by a kind of Conſpiracy between the Spiritual and Common Law Courts in time of Popery, their Prepoſterations, Fictions and Formalities are ſo complex'd and intangled one with another, that 'tis impoſſible to divide them, or carry on a perfect Diſcourſe of one without the other, or of Prepoſteration without Fiction and Formality; the one being commonly cauſe of the other. (4.) It is neceſſary to prevent any Excuſe the Spiritual Judg may pretend; if he ſhould ſay, The Common Law Judg is ſuffer'd to Summon and Arreſt before Copy, to Copy before Oath of Calumny, and to uſe Hundreds of Fictions and Falſities in his Judicial Proceedings, and why ſhould not the Spiritual Judg be allowed as well as he? but where they are both cenſured, they can neither recriminate. And how guilty they both are of nurſing that viperous brood of the old Serpent, who have eaten through the Bowels of Juſtice, may appear by the particulars following: The *Subpœna* in *Chancery* is a Writ or Summons formed by the Biſhops themſelves when Chancellors, wherein notwithſtanding the Holy Catholick Fathers formed as many Lies as Lines. (1.) It begins, as *Weſt* hath it, *Proceeding in Chancery*, p. 183. Jacobus *Dei gratia* Angliæ Scotiæ Franciæ & Hiberniæ *Rex Fidei Defenſor*, &c. *A. C. ſalutem Quibuſdam certis de cauſis coram nobis in Cancel' noſtra propoſitis.* This is not true, for though here, and in other Nations anciently, Princes ſat in their Courts of Judicature in Perſon, 'tis not ſo now; neither are any Cauſes proposed *coram nobis*, before the King in Perſon, unleſs, as ſome preſume, they will attribute the incomprehenſible Attribute of Omnipreſence to Humanity; neither is it ſufficient to reply, that he is preſent there by his Delegate; for a Delegate is only where the Prince is abſent, or will not himſelf receive the Complaint, which is ſignified by the

Fictions and Falſities fomented in all Forms of Judicial Proceedings.

Subpœna's full of Fictions.

the words of *Abſalom*, 2 Sam. 15. 3. *See thy matters are good and right: for there is no man deputed of the King to hear thee.* Intimating, if there had been a Judg Deputed he needed not fear the Kings preſence to have his matters ſo ſeverely weighed, as if he had Judged in Perſon. And we ſee, to avoid the Fiction of Human Omnipreſence, in an Action of Debt returnable in the Common Pleas, where the King ſat not in Perſon, but Judged by Delegates, the Sheriff is commanded *Sum' per bonos Sum' prædictum A quod ſit coram Juſtitiariis noſtris apud* Weſtmonaſterium; and if it had been *Coram Nobis*, it would have been a Fiction; but that which makes the *Certis de Cauſis coram nobis in Cancel' noſtra propoſitis*, not only a Fiction, but a groſs Falſity, is, that the Complainant hath taken out his *Subpœna* before he hath any Bill preſented either to the King in Perſon, or the Chancellor, or the meaneſt Clerk in the Court. It goes on and ſays, *Tibi præcipimus firmiter injungentes quod omnibus aliis prætermiſſis & excuſatione quacunq; ceſſante.* Yet ought the Defendant to be admitted to offer a lawful cauſe of Excuſe or Eſſoin. Next it ſays, *In propria perſona tua*, yet may the Defendant be admitted to appear by Attorney. Next, *Sis coram nobis in dicta Canc' noſtra à die Paſchæ proxim' futur' in unum Menſem.* Yet to appear *Quarto die poſt* the Return-day, is ſufficient; then, *ubicunq; tunc fuerit ad reſpond' ſuper his quæ objicientur*, an Objection cannot be, unleſs there is ſome allegation firſt put in by the Defendant, any more, than an Anſwer can before ſome Bill put in by the Plaintiff: here is therefore a double Falſity, and the Poor Countrey man is fool'd, to ride up an Hundred Miles, when he never put in a Bill himſelf to be objected againſt; nor, when he with much labour is got to Town weary, *quarto die poſt*, is there any Bill put in againſt him by the Complainant for him to Anſwer. Then it is further ſaid, *Et ad faciend' ulterius & recipiend' quod Curia noſtra conſideraverit in hac parte*, yet had neither Party, Plaintiff or Defendant, a Bill or Anſwer in Court; how can it then be ſaid *In hac parte*, where there is no Party. *Et hoc Sub pœna Centum librarum nullatenus omittatis.* This is likewiſe a Menacing Fiction, the Chancellor having no Power to impoſe any Fine or Forfeiture on any Subject, of a Farthing. *Et habeas ibi hoc breve. Teſte meipſo apud* Weſtmonaſterium, when the King is a Hundred Miles off *Weſtminſter*, 12 *die* Febr. *Anno Regni Domini*, &c. *George*, &c.

But if the Defendant is a Noble-man, then no *Subpœna* is awarded, but a Letter by the Lord Chancellor or Lord-Keeper, thus,

A Note of the Fictions of the Epiſcopal Form of the Letter in Chancery, *uſually ſent to a Noble-man, inſtead of a* Subpœna, *to Anſwer.*

The Superscription is, which first comes to be read, and is directed thus,

To my very good Lord, L. L. D. *These.*

This Title of *very good*, if it had been put in *Latine*, might have been more Complementally expres'd *Optimo*, had it not been a Danger lest *Maximo* would have been added: whether the Title of *very good* given to man, is always as great a Fiction as the Titles of *Sanctus Clemens*, and *Pius*, given to Popes, may be always doubtful, in regard Christ himself in Humility refused the Attribute of *Good*, which is a degree under *very good*; Luke 18. 19. *And Jesus said unto him, Why callest thou me good? None is good but One, that is, God*; but this Title *very good*, is sometimes certain, and not doubtful to be a Fiction, when it is attributed to the Leudest Person known, the Letter begins, *After my very hearty commendations to your Lordship*; (This, when there is a Mortal Feud between the Chancellor and the Lord, must be a Fiction) *Whereas there hath been of late a Bill of Complaint exhibited into the Court of* Chancery *against you, by* H. O. *Gent. I have thought good to give you notice thereof rather by these my private Letters, than by awarding his Majesties Ordinary Process.* This, if no Bill is come in, is as great a Fiction and Falsity in a Private Letter, as in a *Subpæna*; and it were far fairer dealing with any Noble-man, as well as a Poor man, if *J. O.* first took his Oath of Calumny to his Bill, and then made him, according to the Precept of Christ, an *Oblatio Libelli*, and sent him a Copy of his Bill by his own Letter, before he troubled him with a Chancellors *Subpæna* or Letter, and made Use of them only on Probation and declaratory Sentence of Contumacy first obtained; and after that obtained, far fairer dealing it were with *J. O.* or any Poor man to grant the same Process of Contumacy that a Noble-man shall have against a Poor man, and not put him to the extraordinary cost and incertainty of a Chancellors Private Letter to a Noble-man, seeing by Law he ought not to receive any Private Letter from him; and such Noble-man ought to be punished by the Civil Law *de Ambitu*, and by the Common Law for *Maintenance*, if he send any; and this Justice would prevent Fictions both of Poor and Rich, and bring forth Righteousness and Truth.) The Letter goes on, and says, *Wherefore these are to pray your Lordships to give order for the taking out of the Copy of a Bill, and for the putting in of your Answer thereunto, according to the usual course in such Cases accustom'd, at or before* Octab. Hill. *next ensuing.* By this Prayer here is a Fiction, that the old Episcopal Chancellor

cellor had an Imperial Authority over the Commons, and only a Precarious over the Nobles, and was a Fiction, if he derived his Authority from the King, of the weakneſs of the Royal Power, and of a Diſhonour to it, as if it was not able to do Juſtice to the Commons againſt the Nobles, as well as to the Nobles againſt the Commons; if a Sheriff at Common Law ſhould Execute his *Præcipe quod reddat*, and his *Præcipe quod faciat* (whereby he is will'd by the King to command thoſe againſt whom thoſe Writs are directed) by writing his humble Letters, when he perceives they concerned Noble-men, to pray their Lordſhips to do what he was appointed to command, the Law makes him liable to high puniſhment; and why a Chancellor ſhould not be liable to the ſame, who commits the ſame offence, and having the Kings Proceſs to command in his hand, will not, or dares not adminiſter Equity by the ſame equal Proceſs, to his Majeſties Subjects both Poor and Rich, appears no reaſon, or rather an higher, *Quanto Major qui peccat habetur*, by how much greater the Power of a Chancellor is, extending to a Kingdom, than of a Sheriff confined to a ſingle Countrey. The next in the Letter is, *Nothing doubting but that your Lordſhip will have the care and regard which appertaineth*, (but another man may doubt whether he ſpake Truth or Fiction,) He concludes well, if not in Hypocriſie, *I leave your Lordſhip to the moſt Merciful keeping of the Almighty*, from Saint *A.* the 9th. of *May*, 1654.

Your very loving Friend, J. P.

Prolixity caused by Fiction.

The Bill in *Chancery* for want of the Oath of Calumny is known to be commonly a Pack of Lies from beginning to the end, which is full of infinite Miſchiefs, and deſtructive to all Juſtice, and makes it of ſuch immenſe Prolixity, (for Lies may be infinite, but Truths are few and ſhort) that it compels the Anſwer to be longer than it ſelf; for every Lie muſt be Anſwer'd as well as the Truth; and by reaſon of ſuch Prolixity, neither the Chancellor, as he ought to do, will take the pains to read, nor the Councel to be inſtructed in either; but the Truth like a Grain of Muſtard-ſeed thrown into an heap of Tares, is loſt, and impoſſible to be found; and Sentences and Decrees paſs'd both Interloquutory and Final, without the leaſt Merit of the Cauſe Started, Stated or Debated.

The Proceſs of the *Chancery* is almoſt as miſchievous a Fiction, as the Outlawry at Common Law, which is the Commiſſion of Rebellion, that on Non-appearance, the moſt Loyal Subject that is may be Feigned, Proclaimed and Impriſoned as a Rebel; ſo the Chancellor needs

needs nothing but a Fiction to elude *Magna Charta*, and the Petition of Right, and an Hundred Acts of Parliament more if they were made to that purpose, to which the Fiction is point blank contrary and destructive, and as inconsistent with all the Fundamental Laws of Liberty and Propriety, as Darkness with Light; yet is there no necessity of it at all: for where it is not necessary to take the Defendants Oath, but the Plaintiff can prove his Bill by Witnesses, full Justice may be done either by *Missio in Possessionem*, where the Action is Real, or where it is to stop Suits by the *English* Injunction or *Scotch* Suspension; and where the Defendants Oath is necessary either for Discovery or Probation on proof made of the Bill, and of the Contumacy and Sentence Declaratory, a *Capias* may be awarded against the Defendant, as after a Judgment pass'd.

Fictions of *Latitats.*

If we go to the Common Law Process, that is as bad infected with Fictions as the Court of Conscience. The *Latitat* is a meer Lie; first it supposeth a Bill of *Middlesex* to precede, where there is no such matter; then the Defendant is slander'd *Latitare & discurrere*, when he lives as openly as any of his Neighbours, and never stirs from his home; the suggested *Latitations* are therefore Lies: Then it saith, *De placito Transgr' Ac etiam*; for if the *Ac etiam* be true of Debt, then it is false as to Trespass; for there can be no Joindure in Action of Debt and Trespass in the same Writ; and so the *Kings-Bench* ought to have no Jurisdiction of Debt, notwithstanding this Fiction, except on a Writ of Error, which is, upon the matter, confess'd by *Coke* himself, though he was Lord Chief Justice of the *Kings-Bench*; for he saith, 4. *part*, 76. In former times some ill disposed Clerks of the *Kings-Bench*, because they could have no Original returned out of *Chancery* for Debt in that Court, they would Sue out an Original Action of Trespass, a meer feigned Action returnable in this Court, and so proceed to Exigent; and when the Defendant appeared, the Plaintiff would waive all the former Proceeding, and file a Bill against the Defendant for Debt; which, he saith, deserveth severe Punishment according to the Statute of *Westm.* 1. *cap.* 29. If the *Kings-Bench* therefore ought not to entertain the Fiction of a Trespass from the *Chancery*, to hook in the Jurisdiction of Debt with it, but the Practice ought to be severely punish'd; why doth that Court allow it self the Fiction of a Trespass in a *Latitat*, to hook in the *Ac etiam* Jurisdiction of Debt, and not severely punish the same? according to the Censure of their own late famous Chief Justice *Coke* in a stronger Case, when the Fiction comes from the Chancellor under the great Seal it self. Or why should a Chief Justice be suffer'd to elude *Magna Charta*, the Petition of Right, and

Acts of Parliament eluded by Fictions.

all

all other Fundamental Laws of Liberty and Propriety, and ſtarve and rot the Poor Subjects in Priſons on meer Fictions of *Latitats*, more than a Chancellor ought to be when he pleaſeth by the Fictions of his Commiſſions of Rebellion, ſeeing both *Latitats* and Commiſſions of Rebellion are both point blank contrary to the Fundamental Laws of Liberty and Propriety?

Fictions of Summons ſerved.

Then, the Original Summons in the *Common-pleas*, which ſhould by Law iſſue before the *Capias* and Outlawry, is uſually by Fiction of the Clerks taken out as of a former *Term*, and Antedated, the Sheriffs Returns upon them forged, the Returns of the Exigend and Proclamations forged, the Outlawry forged; Crimes in Clerks and Attornies, which, if a Law were publiſhed for it, deſerves death. So a Clerk will Outlaw any man in an hour, as well as a Twelve-month, and this he doth by Fiction, and as he calls it, of Courſe; and all thoſe Acts of Parliament which have been made, or will be made, againſt the ſecret Stealing out of Outlawries, are to no purpoſe, and every Clerk derides and eludes them by Fictions of Courſe, and will do, unleſs all Fictions in all Actions, and all Outlawries in Civil Actions are clean taken away, root and branch.

Fictions in Treſpaſs.

Then for the Action of Treſpaſs, 'tis full of Fictions; it makes a *Clauſum fregit*, where there is neither Hedg nor Ditch, nor other Incloſure; my Lord *Coke* indeed ſays, There is one in the Eye of the Law; but I am ſure there is none in the Eye of the Goſpel; then there is a Fiction of a *Vi & Armis* in the Treſpaſs, though a Woman, or a Child, or a Sheep, or a Lamb do it. Then a Fiction is made of a *Continuando* of the Treſpaſs, when the Treſpaſſes were all ſeverally committed, with intervals between each Treſpaſs; then becauſe the Writ-maker will be ſure to run as far beyond the Truth as he can, he will conclude with the Fiction of *Alia enormia ei intulit*, though the Lamb did nothing there, but what was ſcarce enough to make it a Treſpaſs, eat ſome of the Graſs. Tranſitory Actions are Fictions and great Abuſes.

Fictions of Tranſitory Actions.

Fictions in *Trovers*.

A *Trover* is properly an Action of the Caſe, which a man may have againſt another for Finding, and detaining from him of his Goods ſo found; as for his Hawk reclaimed with her Bells, for his Gold-chain, Purſe of Money, Box of Writings loſt and found by another; and the Declaration is, *Bona predicta caſualiter amiſit Quæ quidem bona & Catalla ad manus & poſſeſſionem prad' A devenisſent*, yet do they uſe to bring this Action where there was never any caſual loſs of the Goods, nor finding of them by the Defendant; as, an Action of *Trover* may be brought by the Maſter, for Money which a Servant, ſent with Corn to Sell for him,

him received on Sale of the Corn, *M.* 40, & 41. *Eliz. B. R. Holiday & Higs*, yet here is neither caſual loſing or finding of the Corn or Money; And it may be brought for Twenty Pooks of Corn, *Tr.* 38. *Eliz. C. B. Price*, verſus Sir *Walter Sands*, yet ſuch Goods ſtanding after Reaping, in the ſame Field where they grew, cannot be ſaid to be loſt when they are taken away, nor found by the Treſpaſſor who took them, any more than if he had taken them before Reaping; ſo a *Trover* is brought for an Hundred Load of Wood, and Forty Beech-Trees, *No. lib. intra* 41. *S.* 33. which quantity cannot be ſaid to be caſually loſt; ſo they uſe to bring *Trovers* for a Cow or an Horſe not found, but bought *bona fide*, not knowing any other owner but the poſſeſſor who ſold them; and likewiſe on Goods lent by one to another, for which Goods the proper Action is a *Detinue*, but they turn the true Action of *Detinue*, into the falſe of a *Trover*, for theſe two Reaſons; one to deprive a Third Perſon injuſtly of his lawful Garniſhment and Right of Interpleder; the other in this, to do what they uſe to do in the reſt, that is to ſay, to make Judicial Proceedings Nonſenſe and unintelligible, that in ſo dark a Miſt of Ignorance on the People, they may judg what they pleaſe unperceived; and this they may do with greater ſecurity than *Latine*, for *Latine* is intelligible to ſome, but Fictions and Nonſenſe to none; and all this is cauſed by neglecting the Oath of Calumny.

Fictions make Judicial Proceeding unintelligible.

The General Trial of Titles by Leaſe of Ejectment is likewiſe by Fictions in the Verge; *Coke* ſays, 2. *part*, 548. there can be no Suit, except one Party at leaſt be of the Kings Houſe, yet Suits are there, though all Parties are ſtrangers, which muſt be by Fictions.

Fictions in Ejectments.

An Obligation made beyond Sea cannot be Sued in *England*, as ſaith *Perk.* 25. & 95. & *Bro. Obligation* 70. & *Dr. & Stud.* 63. but *Coke Com.* 261. *b. g.* ſaith, It may be alledged to be made *in quodam loco vocat' Burdeaux*, in *France*, in *Iſlington*, in the County of *Middleſex*, and there it ſhall be Tried. So though in matter of Life, of higheſt concernment in High-Treaſon, by adhering to the Kings Enemies beyond Sea; it is certain ſaith *Coke*, ſuch adherency without the Realm muſt be alledged within the Realm, *Coke Com.* 261. And before the Statutes of 33, and 35. *H.* 8. *&c.* they uſed to alledg Treaſons committed beyond Sea, to be committed within the Counties in *England*, where the Lands forfeited lay, though it was done on Oath, *ib.* & *Stamf.* 90. but this was in time of Popery, when they could eaſily diſpenſe with Oaths, and take away not only mens Eſtates, but Lives by Fictions; I hope ſuch Popiſh Fictions will no longer be ſuffer'd in Proteſtant Courts of Juſtice.

France by Fiction brought into *England.*

Coke

Coke ſaith, From the taking away of Oaths for the truth of the caſe of Eſſoin, by the Statute of *Marlebridge*, *cap.* 12. there aroſe after *Fourcher per Eſſoin* by ſeveral Tenants *alternis vicibus*, and making falſe Eſſoins *ultra mare*, all endeavour'd to be taken away by *Weſtm.* 1. *cap.* 43. & 44. but when a miſchief comes by making an ill Law or Statute, it is never cleanly cured by after Statutes of Explanation or Limitation, without clean repealing again the Statute which cauſeth the miſchief; additions of new Patches to old Garments, making the Rent but worſe.

The miſchief of Fictions of Husband and Wife to be but one Perſon, have been ſufficiently ſhewn, *P.* 66, 67. Fictions in Eſſoins.

In the Common-Law-Declarations the next Fictions, for want of the Oath of Calumny, are *de Plus Petitionibus*. *Conrad.* 405. ſaith *Olim triplum condemnabantur qui majorem Summam in libello aſſignaverunt quam reus debebat*, but in more ancient times, I find they forfeited only the Tenth part, which with an Oath of Calumny might be now ſufficient to reſtrain the lawleſs laying of Debt and Damage in their Declarations an Hundred times more than it is, which is very miſchievous and dangerous to Defendants, when Plaintiffs pack and bribe Juries, and they happen to miſplead, make defaults, or have other Caſualties fallen on them, whereby they cannot attend their Suits. Dr. *Cowell* ſays, The *Civilians* are in no danger *de Plus Petitionibus*, by reaſon of certain *Cautelous* Clauſes they ordinarily have at the end of every Poſition, or Article of their Libel or Declaration, to this effect, *Et ponit conjunctim diviſim & de quolibet, & de tali, & tanta quantitate vel ſumma, qualis & quanta per Confeſſionem partis adverſæ vel per probationes Legitimas in fine litis apparebit*, and again in the concluſion of all, *Non aſtringens ſe ad ſingula probanda ſed petens ut quatenus probaverit in præmiſſis, aut eorum aliquo, eatenus obtineat*. But *Civilians* and *Canoniſts* make their Laws like Juglers-knots to tie with one finger, and untie with the other, they make a great noiſe of their Oath of Calumny, and *de Plus Petitionibus*, and by theſe ſecret Clauſes in their Libels, make it all again to no purpoſe. Fictions *de Plus petitionibus.*

All the Common Law Writs of *Queſtus eſt nobis*, are now grown Fictions; and Declarations *Licet ſæpius Requiſitus*, are likewiſe Fictions, whereby men are ſurprized by Arreſts before any Demand made; the *Inde producit ſectam* in the end of the Plaintiffs Declaration is now turned a Fiction, which was heretofore a legal proof of Witneſs, produced to prove his Declaration, for the better Caution againſt the falſe Calumnies of Plaintiffs; the former Taking of Pledges of the Plaintiff, is now turned to a Fiction of *Plegii de proſequendo*, *John Doe* and

Richard Roe, the Counter-pledges exacted of the Defendant, are now turned to a Fiction; *John Den*, and *Richard Fen*.

Courts of Juſtice compel to Fictions and Falſities.

It doth not ſatisfie Courts of Juſtice to tolerate Fictions and Falſity, but they compel to them; as, the Defendant ſhall be compell'd to give colour; a meer inſenſible Fiction and Lie, he ſhall be compell'd at Common Law to anſwer Negatively or Affirmatively, as if he were Omniſcient, and ſhall not be permitted to ſay *Dubito*, or *Ignoro*, though Juries of greater number may all ſay *Ignoramus*; he ſhall be compell'd to a *Plus petitio*, to avoid a Variance between his Obligation and his Declaration, as *Bro. Confeſſ.* 37. If a man Sue an Obligation for Ten Pounds, and the Defendant confeſſeth all except Forty Shillings, whereof he ſheweth an Acquittance, the Plaintiff prays Judgment, and ſays nothing of his Acquittance, for if he confeſs it, his Writ ſhould have abated.

Fictions of Acts made the firſt day of the Seſſion.

If an Act of Parliament come before them to judg, when it was made, they will judg it by Fiction, to be made the firſt day of the Seſſion.

33. *H.* 6. 17. the Caſe was this, In the *Exchequer-Chamber*, *Forteſcue* Rehearſed how the Parliament laſt paſt, made a ſpecial Act againſt *John Pilkington* Eſq; for the Rape of a Woman out of *N.* &c. and Rehearſed the effect of the Act, and how by the ſame Proceſs was granted to be made to the Sheriff of *E.* to make certain proclamations in a *Ville*, that the ſaid *John* ought to appear before the Lords at *W.* at a certain day, &c. to anſwer to the Treſpaſs contained in the ſaid Act, &c. and if he would not, that then he ſhould be attaint of the Treſpaſs, and pay a certain Sum to the Party, &c. and that the Proclamations were accordingly made and returned into *Chancery*, and the ſaid *John* made no Appearance, &c. and after the ſaid *John* was taken, and in the *Kings Bench*, committed to the *Marſhals-Ward* for certain Cauſes, on which a Tranſcript of the Act, and a Mittimus was ſent out of the *Chancery* directed to us, &c. whereupon the *Marſhal* was charged with him for the ſame Condemnation contained in the Act, and the ſaid Priſoner comes now and alledges by his Councel, That the Act of Parliament is not ſufficient, and therefore prays to be diſcharged, &c. for the Bill being directed to the Commons, paſs'd them well, and was endorſed in this Form, *Let it be delivered to the Lords*; but whereas the Bill was, *That the ſaid* John *ſhould render himſelf before the Feaſt of* Pentecoſt *next enſuing*; the Lords endorſed the Bill in this Form, *The Lords grant, that in caſe he appear not before the Feaſt of* Pentecoſt, *which ſhall be* Anno Domini, 1452. &c. *to wit, at* Pentecoſt *next, after the Feaſt contained in the Bill*. And therefore the Lords granted

ed a longer day then was granted by the Commons, in which Caſe, the Commons ought to have had the Bill deliver'd back again to them and they to have aſſented to the Grant of the Lords, which was not done; and therefore ſuch Act of Parliament is void. *Forteſcue, It ſeems we ought to intend no otherwiſe but that the Act is good, for the King hath written to us by his Writ, and hath certified unto us, That the Bill is confirmed by Authority of Parliament.* Illingworth *Chief Baron, This cannot here be intended as you ſay; for the Writ which is made only by a Clerk of the* Chancery, *cannot make an Act of Parliament good if it be vicious in it ſelf,* &c. And afterwards he ſent for *Kirkby* keeper of the Roll's, and for *Faukes* Clerk of the Parliament. *Forteſcue* Rehearſed the matter to them both; on which *Kirkby, Sir, The courſe of the Parliament is this,* &c. *But if any Bill is particular, or other Bill, which is firſt deliver'd to the Commons and paſs'd, they uſe to endorſe the Bill in this Form,* Let it be deliver'd to the Lords; *and if the King and the Lords agree to the Bill without changing it, then they uſe not to endorſe the Bill, but the ſame is deliver'd to the Clerk of the Parliament to be Inrolled; and if it be a Common Bill it ſhall be Inrolled and enacted; but if it be a particular Bill, it ſhall not be Inrolled, but Filed on a File, and it is well enough; but if the Party will Sue to have the ſame Enter'd for his better Security, it is well enough, it may be Inroll'd; and if the Lords will alter the Bill, that which may ſtand with the Grant of the Commons ſhall not be deliver'd back to them; as, if they will grant Tonnage and Poundage for Four Years, and the Lords grant them only for Two Years; this ſhall not be redeliver'd to the Commons, becauſe 'tis conſiſtent with their Grant; but if* Vice Verſa, *the Commons grant for Two Years, and the Lords for Four, then the ſame muſt be redeliver'd to the Commons for their Aſſent,* &c. Faukes, *Sir the Caſe was thus, The Bill was put into the Commons after the Feaſt of* Pentecoſt, *which was in Parliament time, and the intent of the Bill was, That the Proclamations ſhould laſt till the Feaſt of* Pentecoſt *then next enſuing, which was* Anno 1452. *but every Bill of Parliament ſhall have Relation to the firſt day of the Seſſion of Parliament, though it be put in at the latter end; therefore the Lords granted according to the intention of the Bill.* Priſot, *Are you certain that the Bill was deliver'd after the Feaſt of* Pentecoſt *which was in Parliament time, or not?* Faukes, *Truly, I do think ſo,* &c. Markham, *Do you uſe to make Inrollment of the Day, when you firſt receive the Bills.* Faukes, *No Sir.* Markham, *Verily this is a Perilous thing, for the Court of Parliament is the Moſt High Court the King hath, and it were well done, if every Act and Thing there done, which is material, and reaſon of it, were Inrolled,* &c. *For in this Caſe, if the Bill paſs'd the Commons and the Lords in the manner*

aforesaid, before the Feast of Pentecost, *then the Act is void, because of the variance of the Endorsement of the Day by the Lords,* &c. *From the Bill,* &c. *And it was not redeliver'd to the Commons, but it was deliver'd after the Feast of* Pentecost; *then it seems they are agreed, for all is one day; wherefore this matter cannot determine one way or the other by your Record, who are the Clerk,* &c. *And now we can give no other credit to what is said, but that the Bill was deliver'd the first day of the Parliament,* &c. Fortescue, *This is an Act of Parliament, and we will be well advised before we make void any Act of Parliament, and peradventure the matter ought to rest till the next Parliament, and then we may be certified by them of the certainty of the matter; but however, we will be well advised what to do,* &c.

This Fiction and the Inconveniences of the same, are very well Reformed by an Act of Parliament of *Scotland*. *Jac. 6. P. 7. Cap.* 121.

FOr sameikle as it is understand to the Kingis Majestie, and Thre Estaites of Parliament, that oftentimes Doubtes and Questions arisis touching the Proclamation of the Actes of Parliament, and Publication thereof, it being sometime alledged by the Lieges, that they are not bound to observe and keip the samin as Laws, nor incur ony paines conteined therein, quhill the same be Proclaimed at the Mercat Croces of the head Burrowes of all Schires. For remeding of quhilkis Doubts in time cumming: It is Statute and Ordained be our Soverane Lord and Estaites of this present Parliament, That all Actes and Statutes of Parliament maid at this time, and sal happen to be maid at onie time hereafter, sall be Published and Proclaimed at the Mercat Croce of Edinburgh, only quhilk Publication, our Soverain Lord and Estaites, foirsaidis, decernis and declaris, to be als ratiable and sufficient, as the samin were Published at the head Burrowes of the haill Schires within this Realm; And alswa declaris the haill Lieges to be bounden and astricted to the obedience of the saides Actes as Laws Forty Dayes after the

the Publication of the ſamin at the ſaide Mercat Croce of Edinburgh being by-paſt.

By the Statute of 1. *H.* 5. *cap.* 1. It is Enacted, That the Knights of the Shires which from henceforth ſhall be choſen in every Shire, be not choſen unleſs they be Reſident within the Shire where they ſhall be choſen, the day of the date of the Writ of the Summons of the Parliament; and that the Knights and Eſquires, and others, which ſhall be chuſers of thoſe Knights of the Shires, be alſo Reſident within the ſame Shires, in manner and form as is aforeſaid; And moreover it is Ordained and Eſtabliſhed, That the Citizens and Burgeſſes be choſen of the City and Burrows, Men Citizens and Burgeſſes, Reſiant, dwelling, and Free of the ſame City and Burrows, and no other in any wiſe. Fictions of Members of Parliament, Reſident and Native.

And as though this were not ſufficient for Excluding Foreigners from Elections, It is Enacted further, by 23. *H.* 6. 15. That the Knights of Shires for the Parliament, hereafter to be choſen, ſhall be notable Knights of the ſame Counties for the which they ſhall be choſen, or otherwiſe, ſuch notable Eſquires and Gentlemen born of the ſame Counties as ſhall be able to be Knights.

So by theſe two Acts of Parliament it is Enacted, None ſhall be choſen for Knights of Shires but ſuch as are both Reſidents and Natives of the Shires for which they ſerve: Acts of moſt high Wiſdom and Juſtice; but alas, now both Reſidents and Natives being in practice only turned to Fictions, what defence are they to the Subjects, in what all they have is concerned, the Election of an equal and faithful Repreſentative, againſt the Two Hundred Thouſand Pounds diſcover'd in the Letters of the late Horrible Popiſh Plotters, to pois on all the Elections of Parliament-men through the Kingdom, by buying of their Places to Papiſts and their Adherents, Penſioners to *Rome* and *France*, to ſell the moſt Proteſtant King, Religion, and Three Kingdoms, for a Spoil to Foreiners, and to place ſuch Sheriffs as may in tendency thereto, by Fictions of their Returns, that the Free-holders, *Ut major pars totius*

totius Comitatus prædict' tunc ibidem existen' jurat' & examinat' Secundum vim formam & effectum diversorum statutorum inde edit' & provisorum Eligerunt A. B. *milit'* & C. D. *milit' infra Comitat' prædict' commorantes*, &c. Now if these Knights are not *infra Comitat' prædict' commorantes*, Residents of the County, and *Secundum vim formam & effectum Statutorum*, &c. Especially of the 23. *H.* 6. 15. Natives of the County, this Return is Fictitious and False, and utterly unlawful, contrary to the Sheriffs Oath, and for which he ought to be punish'd in One Hundred Pounds to the King, and Imprisonment one Year without Bail; and One Hundred Pounds more to the Knight injured thereby, or to any other Person who in his default will Sue for the same, and is contrary to the two said standing Acts of Parliament, of greater consequence than *Magna Charta*, or the Petition of Right themselves, for if there is a Protestant Parliament, no doubt they will make, and we shall not want Protestant Laws, but if once there get in a Papist Parliament, both Protestant Laws, Religion, and Protestants themselves, will be all destroyed. And as the Sheriff Returns Fictions to Courts, so do they send Fictions to him, and it is hard for him to know when they speak true, and when false; as, if a *Venire Facias* be sent him, to Return 12 Jurors, he must Return 24, which is double the number, or he shall be Fined, for as they write their words in the *Venire* by halves, so do they (as it seems) their Meaning by halves, yet the poor Sheriff is bound to understand them to his Cost; then if they send him a *Pone per Vadios & Salvos plegios*, the Sheriff must Return no other *Plegii* to answer their Fiction, than his own Fiction of *Plegii*, *John Den* and *Richard Fen*, or they will teach the Party to have a false Imprisonment against him. Suits are removed when the Plaintiff hath been at all the Cost and trouble, and is ready for a Trial, on meer vexation, and to delay on Suggestion or Fiction of a Cause, without any Oath of Calumny. Attachments, and Arrest of Goods and Persons is used in the City without any *Oblatio Libelli*, or Oath of Calumny, on meer Fictions and Suggestions, *City Law*, 22. but very wrongfully, for a Citizen hath as good Right to *Magna Charta*, as he hath to the Charter of the City, and under the name of being free of the City, doth not lose the liberty of a Subject, to be free from Arrest before Judgment. *Coke Vind. Law.* 26. says. This brings to my remembrance how a Gentleman was Arrested for 1500 *l.* the same day that he was to have been Married, without any colourable cause of Action, spitefully to hinder his Match, and was not able to give Bail, but the Party being Non-suit, the Gentleman notwithstanding could recover as I remember no more than 7 *s.* 2 *d.* Cost, yet he lost his Monies, and indeed himself by it, for

Abuses of Fictions to Arrest before Judgment.

for I know it was the occaſion of his utter Undoing; and a man that is Cannibally given, may devour the Credit of 500 men, Arreſting them for 5000 *l.* a piece, never declare, yet pay no Coſt, though Party Arreſted had better have paid 500 *l.* and this is ſo uſual, that 'tis commonly ſaid, I'le beſtow a Bill of *Middleſex* on ſuch a man to ſtay him in Town, that I may have his company into the Countrey when I go down. And I my ſelf was informed by a Sea-Captain, who was a Sufferer in ſuch an Arreſt, That there happen'd to be two Merchants in *London*, each of which deſigned a Voyage to the ſame Port of *Barbary*, whether he who could arrive firſt, was aſſured he ſhould to his great gain obtain the Prime of the Market, to which purpoſe they both ſtrove with all diligence poſſible which ſhould be foremoſt at the Spring, and it happen'd that he who had his Ship firſt ready had entertained this Captain of my acquaintance to command her for him, and all being ready to ſet Sail, the Captain would needs walk into the City to take his parting Cup and Farewell of his Friends, where unexpectedly he was Arreſted for 5000 *l.* though not owing a farthing, and the ſame being a Choak-Bail-Sum, he knew he ſhould get none to be Surety for him, and thereupon ſent to his Merchant, to inform him how he was boarded before he could get aboard, who being much troubled that his Captain was taken by a Land Pyrat, repaired to him, and underſtanding from him that he did not owe the Party at whoſe Suit he was Arreſted a farthing, and knowing withal that it was done by the Spite of the other Merchant to ſtop his Ship from getting before him, he gave Bail for his Captain, and ſent him immediately on the Voiage. All which Miſchiefs happen, becauſe there is no Law to compel to give a Copy of the Declaration and Oath of Calumny before Arreſt, by which all Fictions are prevented. All the Judicial Tranſactions of Fines and Recoveries, are Fictions; ſo though we have fled from Land to Sea, and back again from Sea to Land, we know not where to find Reſt for the Sole of our Foot from Fictions. We are next come to another horrible cauſe of their Increaſe, which is, that no Averment or Probation to the contrary is admitted againſt the Sheriff or the Clerk, nor the Returns or Records; how Records, which are nothing but the Scribling of Clerks in falſe *Latine* and Court-hand, for their Fees, come to be of higher Authority than the Scripture it ſelf, is ſtrange; for it was never denied, except againſt *Mahomets Alchoran*, but Averment and contrary Probation might be brought againſt the falſe Copying, falſe Tranſlating, or falſe Printing of any word, or Clauſe in the Scripture, or it would be very difficult to overthrow Popery. What greater reaſon is there of ſo many Forgeries of Clerks, but that there is no Averment allowed againſt their Records,

Fictions of Fines and Recoveries.

Records, nor contrary Probation, whereby they may for Money inſert what Fictions and Falſities they pleaſe. *Eſtopples* are another miſchievous cauſe, and the denial of liberty of *Travers* as bad or worſe than the other.

Turpia quid referam vana mendacia Linguæ?

I am weary and aſhamed to recite ſo much, reflecting ſo deeply on the Honourable and neceſſary Profeſſion of the Law.

——*Pudet hæc opprobria nobis,*
Et dici potuiſſe & non potuiſſe refelli.

But all this may be eaſily taken away of Fictions and Falſities, if ſo ſmall a matter of Form were but alter'd, as to give liberty to Traverſe all is falſe, and to cauſe the Plaintiffs and Defendants to give Copies of their Declarations and Pleas, and to give their Oath of Calumny to them; for I ſaw it by experience in *Scotland*, which I muſt acknowledg and teſtifie to the Honour of their Form of Judicial Proceedings, That I could never for the ſpace of Six Years, obſerve the leaſt Fiction in the ſame, which I can attribute to no other cauſe than the wiſe and juſt Act of Parliament concerning the Oath of Calumny, *Jac.* 1. *P.* 9. *C.* 125. and the preſent Practice accordingly, which Act being ſhort, I have tranſcribed.

That Advocates and Fore-ſpeakers in Temporal Courts ſall Sweare.

Throw the conſent of the haill Parliament, it is Statute and Ordained, That Advocates and Fore-ſpeakers in Temporal Courts, and alſwa the Parties that they plead for, gif they be preſent in all Cauſes in the beginning, or he be heard in the Cauſe, he ſall Swear that the Cauſe he Trowis is gud and leill that he ſall Plead; and gif the Principal Party be abſent, the Advocate ſall Swear in the Saule of him, after as is conteyned in thir meters.

Illud juretur quod Lis ſibi juſta videtur,
Et ſi quæretur verum non inficietur.
Nil promittetur nec falſa probatio detur,
Ut Lis tardetur dilatio nulla petetur.

Of Judgment before Hearing.

Part of a Satyr tranſlated out of *Seneca*, page 685. on the Sottiſh Emperour *Claudius*, who uſed to Sentence before Hearing.

Deflete virum,
Quo non alius
Potuit citius
Diſcere Cauſas
Una tantum
Parte audita,
Sæpe & nutra.
Quis nunc Judex
Toto lites
Audiet Anno?
Tibi jam cedit
Sede relicta
Qui dat populo
Jura Silenti,
Cretæa tenens
Oppida Centum.
Cedite mæſtis
Pectora palmis
O Cauſidici,
Venale genus,
Voſq; poetæ
Lugete novi,
Voſq; in primis
Qui concuſſo
Magna paraſtis,
Lucra fritillo.

Weep for the Man,
All ye who can,
Then whom none would
Or ſooner could
A Cauſe right catch,
Or it diſpatch,
Though part but one
He heard, or none.
A Judg alas,
Is now an Aſs,
He cannot hear
In a whole Year,
Or end a Suit,
There's ſuch Diſpute.
To thee give place
Minos his Grace.
Though he hath Men,
And Ten times Ten,
Cities in *Creete*,
Who do him greete,
And with his Laws
The ſilent awe,
Goblins and Ghoſts
With all their Hoſts,
Oh Saleable,
Lawyers now Yell,
And likewiſe you
Ye Poets new,
And you whoſe pains,
For eaſie Gains,
Cauſes to haſt,
The Dice did caſt.

It is further mention'd, that when *Claudius* for this kind of Juſtice was Arreſted in Hell on a *Latitat*, and many complaints were there made againſt him by thoſe who were injured thereby, he deſired he might be heard to anſwer for himſelf, and eſpying there *P. Petronius* who had been his Creature while above ground, he humbly requeſted *Æacus* who was the Judg, that *Petronius* might be of his Councel and plead his Cauſe for him. *Petronius* having been uſed to the Trade while alive, very readily *Venit & Defendit, Vim & injuriam quando*, but *Æacus* ſharply forbid him to ſpeak, being clear of opinion, that *Claudius* who had condemned ſo many before Hearing, ought in Juſtice to ſuffer the *Talio*, and be himſelf ſo condemned, he therefore to as many complainants as deſired it, gave liberty to lay more Arreſts and more Bilbo's on him before Judgment, and to as many as deſired Judgments, gave them as many as they would have before Hearing, and to Execute as many puniſhments as they would; againſt which, he ſtrugled much to have been heard to anſwer for himſelf, yet they thruſt ſuch a Gag into his mouth, that he was enforced to ſuffer many Judgments to paſs againſt him on a *Nihil Dicit*.

Now though a feigned *Æacus* is to be derided, yet there is a Judg of the World who will not be mocked; and though there are many forward enough to condemn *Claudius*, yet may there too many if they will but inſpect their own Forms of Judicial Proceeding, find themſelves guilty of as great if not worſe Vices in their Judicatories, than he.

An Enumeration of divers Forms of Judicial Proceeding, whereby the People are Condemn'd, and Judgment paſs'd againſt them before Hearing.

The Firſt is, When Men are repell'd from ſhewing the Truth and Merit of their Cauſe, and compell'd to make their Allegations in Formalities and Fictions.

A Diſpute between two Judges, concerning Formality and Truth in Judicial Proceeding.

The point of Formality in Judicial Proceedings is very well Diſputed by two famous Judges, *Fitzherbert*, and *Brook*, 14. *H.* 8. 25. *b.* Where the Caſe was this, In an Action of Debt brought on an Obligation indorſed

dorſed with a Condition, to perform all Covenants in an Indenture, between the Defendant and Plaintiff, which Indenture contained Four Covenants, One whereof was, That a ſtranger ſhould be Clerk to the Sheriff, who was then Plaintiff; and alſo that the ſtranger ſhould pay at the Profers Seventeen Pounds at ſuch a Feaſt, and Thirty Pounds more at ſuch a Feaſt, and other Covenants which he Recites; and ſaith further, That he was a Lay-man, and not Letter'd, and that the Indenture was read to him, concerning no more than the two firſt Covenants and no other, which two he had paid and performed, and ſo demands Judgment *Si Actio*, and ſays not *Et ſic non eſt factum*, on which Plea the Sergeants demur'd in Law. *Fitzherbert*, I conceive this a good Plea, for by the Law a man is Compellable to no more than only to ſhew the matter of his Caſe in Truth and good Sentence, and if the Parties in their ſhewing cannot agree, then to join Iſſue upon the matter of Fact on which they differ, and put it on Trial of the Jury, and then the Judg, on the Truth of the matter of Fact found, ſhall adjudg what is the Law; and here it ſeems the Defendant hath ſhewn in Truth and good Sentence, for he hath ſhewn he was a Lay-man and not Letter'd; and that only two of the Covenants in the Indenture were read unto him, and no more; and I think he is only bound to perform what was read to him, and ſo the Obligation to be good for the ſame, and void for the Reſidue which was not read; and I find it adjudged, 47. E. 3. where one was bound to an ignorant Lay-man, who was not Letter'd in an Hundred Pounds to be paid at ſeveral days of payment; and at the firſt day the Obligor made due payment for what was then to be paid, and the Obligee made him an Acquittance of the firſt Sum, and in the end of the Acquittance was added a general Releaſe; and of this, only that part was read to the Obligee which was an Acquittance of the firſt Sum, but the part which mention'd a general Releaſe was not read; and this matter was pleaded in an Action of Debt after brought againſt the Obligor, and it made the Acquittance which was read good, and the Releaſe which was not read void, and ſo the Deed was adjudged good for part, and void for part; and it would be a great Miſchief if it ſhould be otherwiſe, for in the ſame Caſe, if the Deed ſhould be void in whole, then the Obligor ſhould loſe all the Money he paid, and if it ſhould be good in the whole, then the Obligee ſhould loſe his Obligation, which were unreaſonable that any man ſhould be deceived by his Ignorance of the Fact, though he may by his Ignorance of the Law. And here the Defendant being bound to perform two of the Conditions in the Indenture, which were read to him, he cannot plead *non eſt factum*, for that would be a

Lie, and contrary to the Truth, of his own confeſſion; therefore ſeeing he hath pleaded the Truth in good Order and good Sentence, and concludes Judgment, *Si Actio*, I think he cannot plead or conclude in any better Form. And *Brudnell* agreed with *Fitzbesbert*.

Brook, Ch. Juſtice. I conceive the contrary, and that the concluſion is not good. And Sir, as to what is ſaid, that the Law is no other, but that a man ſhall Declare his matter in Truth and good Sentence; the Law is more than ſo, for without Formality the ſame is nothing worth; as the Form of Law is, a man ſhall ſhew his matter without Duplicity or Multiplicity, yet may matters more than one be True and in good Sentence, but they want Formality, and therefore are nothing worth, and a Form ought to be uſed, or otherwiſe all things will be in confuſion. So in Treſpaſs, the Defendant ought to give a colour of Right to the Plaintiff, yet the colour is not true, nor the Sentence the better, but it is the Formality which is required; and Formality is the chiefeſt thing in our Law, and though the matter in the preſent Plea appears in Truth and good Sentence, yet here wants Formality, for he ought here to have concluded not Judgment *Si Actio*, but *Sic non eſt factum*, for I conceive, in regard only two Covenants of the Indenture were read to him, and there were more Covenants not read, that the whole Indenture is void, and it is Fraud in the Obligee. And *Pollard* agreed with *Brook* that it was no good Plea, and that the whole Indenture was void. But to this *Fitzherbert* and *Brudnell* might have repli'd, that admit the whole Indenture had been all void in Law for the Fraud in part, and the Defendant might *Rigore Juris* Plead it, yet *Quilibet poteſt Renunciare juri pro ſe introducto*, if the Defendant was more merciful than the Law, and his Conſcience would not ſuffer him to uſe *Summum jus*, but doth aſſent to perform thoſe Covenants were read to him; is it therefore Reaſon or Conſcience that the Plaintiff for his good Nature and Courteſie, ſhould return him Evil for Good, and put the Burden of all the Covenants on him, becauſe he would perform any when he needed perform none, if he would have pleaded in a Form againſt his Conſcience, and that Truth ought to be prefer'd before Fiction and Formality? But I leave the Merits of the Cauſe to others to Cenſure, and ſhall only upon the whole Diſpute, take theſe Obſervations,

(1.) It appears by the Caſe, that there are but Four Judges in the Court, and they are divided Two againſt Two, *Fitzherbert* and *Brudnell* for Truth againſt Fiction, and Subſtance againſt Formality; and *Brook* and *Pollard* for Fiction againſt Truth, and Formality againſt Subſtance, whence is ſhewn, that there have been, and are many good

good men Judges, and other Profeſſors of the Law, who with all their their Power, Deſire, and long to remove thoſe Abuſes of Fictions, Forms, and other Irregularities, which are Reproaches on the Practicers; but ſhould they afflict themſelves to death, can do nothing, if equipoiſed or overpoiſed by the other Party, therefore they ought not to be imputed to thoſe who are not guilty, but the conſideration of them ought to be left to the Legiſlative, which hath Power to Redreſs them when they pleaſe with a word, and ſhall give account to God if they neglect the ſame.

(2.) It may be obſerved how many Contentions ariſe about a petty piece of Formality, when there is none about the Subſtance; which is acknowledged by *Coke* himſelf, *Com. Lit.* 303. whoſe words are theſe: When I diligently conſider the Courſe of our Books of Years and Terms, from the beginning of the Reign of *Ed.* the *Third*, I obſerve that more Jangling and Queſtions ariſe upon the manner of Pleading and Exceptions to Form, than upon the matter it ſelf, and infinite Cauſes loſt or delayed for want of good Pleading; by which he means, Formality hath deſtroyed infinite good Cauſes, which is a moſt horrible thing to be Tolerated in any Government.

(3.) The next thing obſerveable is, The great Ignorance of Courts themſelves, in their own Formalities, for they have continued by *Coke's* confeſſion, Jangling and Wrangling about them ever ſince *Edward* the *Thirds* time, and are yet never the wiſer, nor any perfect Form invented or ſettled by them; they are ſtill ever Learning and never come to the knowledg of Truth, and ſo will be to Dooms-day, if they are not by God ſooner called to Account of their Stewardſhips, and this point of Ignorance in their own Formalities, is further confeſſed by *Coke* in another place, where he ſaith, It were to be wiſhed, that *Littleton* had writ ſomething concerning Pleadings, which ſhews, he was but a wiſher or woulder at it himſelf, for whom, if he had been able, it had been far more proper to have writ a perfect Form of Judicial Proceeding, than to wiſh the ſame had been done by one dead Hundreds of Years before, and if he could have had him alive, 'tis likely he was as much to ſeek as himſelf; for he could not write any directions concerning it to his own Son, though it was a point above all other which he deſired he might Learn; and in reſpect of which, his *Tenures* were but Trifles, but he is fain to leave it to him as his other Queries *de Dubiis*, and a *Terra Incognita*, where he ſhould get Rich Mines of Gold and Silver if he could light on it; in theſe words: And know my Son, that it is one of the moſt Honourable, Laudable, and Profitable things in our Law, to have the Science of well Pleading

in

in Actions Real and Perſonal, and therefore I counſel thee eſpecially to employ thy Courage and Care to learn this. Which yet neither he nor any ſince ever learnt or found out in this Climate, neither is it poſſible for any to do, unleſs thoſe very Forms of Actions and Writs are made only Directive and not Coercive, and Liberty given of Commencing and Diſputing Suits on more Solid Foundations of Right, than can be laid on any Forms in the World, eſpecially on ſuch, in which the Courts themſelves are Ignorant how to proceed; and their ſo many divided and contrary Opinions in the Expoſitions of the Law, have ſo intangled the croſs Threads of their ſeveral Clues of unravell'd Opinions, that now no Courts unleſs they clean break them all to pieces, are able ever to get out of their own Labyrinth of Formalities, and are moſt commonly in the pitiful Condition, wherein *Vigelius Dia. Jur.* 477. finds his Judg who is Ignorant of the Forms of Judicial Proceeding *At nunc*, ſaith he, *Cum Judex Litiſconteſtationis adeoq; judicandi ratione ſit ignarus ſedet inter Advocatos & Procuratores tanquam Aſinus inter ſimias, neſcit quando Diſputationes in Cauſa permittendæ ſunt, quando contra ſunt inhibendæ, hinc ne neceſſarias inhibeat non neceſſarias permittit, & Advocatis in infinitum Diſputandi Licentiam concedit, non Semel ſed ſæpius dilationes Dat, easq; velex leviſſima cauſa.* But now ſaith he, when a Judg is Ignorant how toſtate the Point of the Cauſe, and of the Form of Judicial Proceeding, he ſits amongſt the Barriſters and Attornies like an Aſs amongſt Apes, he knows not when Diſputes of the Cauſe ought to be permitted, nor when they are to be reſtrained; then leſt he ſhould reſtrain the neceſſary, he lets looſe the unneceſſary, and caſts the Reins on the Pleaders necks to run whither they will, and on every Triſle multiplies Delays: and as the ſame Author further ſays, *p.* 610. *Ut nunc Status Judiciorum noſtrorum habet, viginti, interdum Triginta dilationes Dari ſolent, eæq; ex cauſis plerumq; leviſſimis, nec ad Probandum ſolum ſed ad Excipiendum, replicandum, duplicandum, triplicandum,* &c. *Sed & concluſa Diſputatione Judex etiam trium vel quatuor, interdum plurium annorum Dilationem ſibi ſumit ad pronunciandum,* &c. *unq; ii qui reformandis Judiciis præficiuntur tam Craſſos Errores perſpiciunt, ſed & ſi perſpiciunt defendere tamen quàm Emendare malunt. Vereor itaq; ne juris peritorum eundem quem & Clericorum Authoritas Exitum ſit habitura.* As now the ſtate of our Judicial Proceeding ſtands, it uſeth to give Twenty, ſometimes Thirty Dilations, and thoſe on meer Toys, and not only for Probation by Witneſſes, but to Except, Duply, Triply, Quadruply, &c. As likewiſe when the Diſputations are concluded, a Judg will delay Three, Four, or more Years, before he will pronounce Sentence; neither do thoſe who are ſet to preſide in Judicial Proceeding ſee ſo groſs

Errors,

Errors, and though they do, yet had they rather defend than amend them. I fear therefore leſt the Lawyers come to the ſame end which the Popiſh Judges and Clerks, their Predeceſſors in their Courts did. It is certain the Soldiers in the late Troubles were ſo much enraged, that they would have cut all their Fictions and Formalities to pieces, if any would have preſcribed them a Form of Proceeding which ſhould be intelligible to them. Now all theſe Delays riſe from Diſputes or pretence of cauſe of them, and all Diſputes at Common Law, riſe from Formalities; and how can it be otherwiſe, ſeeing the Writs on which all Judicial Proceedings are founded are nothing but Formalities? and all Demurs and Diſputes relate only to the Giſt of the Writ, or the Form of the Declaration or Plea which are Relative to the Writ, and there can be never any Demurrer or Diſpute at Common Law on the Writ of the Merits of the Cauſe, which though one Form of Writ will not bear, another may, and all Equity on which the true merit of all Cauſes depends, is clean Excluded out of all Common Law Courts, becauſe to Judg by Formalities is more profitable, and raiſes more Contentions than the Merit or Equity of the Cauſe.

(4.) It is to be Obſerved, how contradictory theſe Formalities are to themſelves, and one another, as in the Caſe of Colour before mention'd, a meer unintelligible piece of Non-Senſe (for what is more inſenſible than a Lie or Fiction) yet will they force the Defendant to this Lie, and not to plead the General Iſſue of *Not Guilty*, nor allow him to plead a Special Iſſue according to his Caſe, as a Formality whereby they take the Cauſe from the Jury to themſelves at their Arbitrary pleaſure, ſo as unintelligibly and Arbitrarily, in all other Caſes, they compell poor men to take or leave the General Iſſue at their Fancy, for Formalities ſo uncertain, as they themſelves often contradict themſelves, and ſometimes they are all divided, what Plea ſhall amount to the General Iſſue, and what not, or what ought to be given in Evidence on the General Iſſue, or what ought to be pleaded ſpecially, and not given in Evidence on it, and frequently ſpend the whole *Term* in unneceſſary, long, tedious and coſtly Arguments, *de Lana Caprina* on Demurrers on both, when if they would give but a Formulary directive, and not coercive, how they would have men plead, men were permitted but to ſpeak the Truth of their Caſe in ſuch Words and Language as their own Senſe and Reaſon which God hath given to that end, prompts them according to the ſame, and where it fitted not their Caſe, to wave it, all this were ſaved, and the merits of ſo many good Cauſes, miſerably deſtroyed for ſo petty and pitiful inſenſible Formalities preſerved. *Coke Com.* 282. acknowledges, that by one miſtake of giving

matters

matters of Juſtification in Evidence on the General Iſſue of *Not Guilty*, the loſs of moſt Cauſes depends, yet would he and others keep it up ſtill; to what end none can tell, unleſs to keep the ſame Pit open, that ſo many more Cauſes might continue perpetually to be loſt in it for the gain of Practicers pleading to Juries, before whom it being matter of Fact, they ought not by Law be ſuffer'd to ſpeak. And this Rule of not giving in Evidence, but pleading on the Iſſue *Not Guilty*, they will force the ſame man in one end of the ſame Room to plead his Juſtification, and not give the ſame Evidence; and in the other end of the Room to give it in Evidence, and not plead his Juſtification. As in a Treſpaſs for Battery at an Aſſizes, If at the *Niſi Prius* he will p'ead *Not Guilty*, and give his Juſtification in Evidence, That he beat the Plaintiff in his own defence, he loſes all. And if at the Crown-ſide, he who hath beaten and kill'd a Robber or Thief in defence of his own Life on the High-way, or of his Houſe by Night, plead his Juſtification, and will not ſay *Not Guilty*, and give it in Evidence, be he never ſo Innocent he loſes all; and well he may, when he is to be Judged by thoſe who contradict themſelves, and are not able in their Fictions to follow that neceſſary Rule, *Oportet mendacem eſſe memorem*, and forget at one end of the Hall the Formality they Commanded or Prohibited at the other.

(5.) The Fifth Obſervable may be, how great a prejudice and danger it muſt be to the People, to be forced to put all their Eſtates on the hazard of ſuch Forms as the Judges themſelves underſtand not, nor can agree about, but are in perpetual Contention and Conteſt for, one with another; and the vaſt charge they muſt be at to maintain theſe Diſputes to deſtroy themſelves, which would not be, if Formalities were taken away, and only the merit of the Cauſe examin'd in Judgment. Moſt Noble *Fitzherbert* the firſt Flower of Judges which ever ſprung in *Weſtminſter-Hall*, we may thank God for thee from Generation to Generation, who firſt didſt dare with the Sword of Juſtice oppoſe the whole World of Enemies to Truth, and to give the monſtrous *Romiſh* Hydra of Formality, and the Devil himſelf the Father of Lies and Fictions that wound in Judicial Proceedings, whereof they ſhall never be cured.

(2.) *The Plaintiff, eſpecially if a Poor man, is Condemn'd without Hearing, by being compell'd to begin his Suits by the Purchaſe of Original Writs, and ſo likewiſe the Defendant.*

This excludes the Plaintiffs of the Poor out of Courts, and only takes

takes in the Rich. (1.) Becauſe of the remoteneſs of ſending for Writs, the ſame being the greateſt part ſent for Hundreds of Miles. (2.) They are limited to ſo many ſhort Returns, only to multiply unneceſſary Fees for *Aliaſes* and *Pluries*, that they are extreamly troubleſome and coſtly to the Poor. (3.) The Forms of them are ſo tickliſh, that when got, they are eaſily abated and overthrown for the miſs of a word, a ſyllable, and often a daſh to an half word, not made *more clericorum*, and often for falſe *Latine*. A Writ abates likewiſe for any default of Form varying from the Regiſter, Omiſſion, variance in order of words, from the order uſed in *Chancery*; the following matters are likewiſe good exceptions to abate Writs, raſure, Interlining falſe *Latine* (yet they never write true) Omiſſion of the words *Vi & Armis*, or of the words *Contra pacem*, Outlawry, Miſnaming, a Twice naming of the Perſon, Miſnaming of the Village or Hamlet, Miſnaming of *Barockſhire* for *Barkſhire*, Miſnaming of the Village, Miſnaming of the Perſon; ſo variance between the Writ and the Declaration, or Count, in the leaſt toy is a ſufficient Exception to overthrow both Writ, Declaration, and Count, as 9. E. 4. 42, 43. *Det* by *Edward Haſtings*, and Counts, that he by the name of *Edward Haſting?*, recovered Land in Ancient *Demeſne*, and One Thouſand Pounds Damages, and brings his Action for the Damages; by Three Juſtices againſt Five, the Writ ought to abate. *Haſtings & Haſting?.*

28. *Aſſ.* 52. A Record removed, and a Variance between the Record and the Mittimus, and the *Certiorari*, for one was *H. Green*, Juſt. and the Writ was *Henry de Green*; the omiſſion of the word *De* ſtopt the proceeding of the Juſtices. Treſpaſs, the Writ was *Molineux*, the Protection *Moliney*, and therefore diſallowed for the Variance. 7. *H.* 6. 22. *Green* and *de Green.* *Molineux* *Moliney.*

Treſpaſs againſt *J. N. nuper de D.* in the Protection *Nuper* was omitted, therefore Variance. 19. *H.* 48. *Nuper* omitted.

Audita querela upon an Indenture, which was *Langa White*, the Writ was *Lang Whaite*, which put the Party to great Coſt to get it to be amended. 21. *H.* 6. 7. 7. *Port.* ſaid an Outlawry was reverſed for the Variance between *Dockwra* and *Dockawre*. 21. *H.* 6. 7. *Dockwra* *Dockawre*

I. In the Obligation the Defendant was named *J. M. de M.* in the Writ *M.* was left out, and therefore abated. 38. E. 3. 24.

In *Mayhem* the Writ was, *Contra pacem Nuper Regis*, and the Count *Contra pacem nunc Regis*, therefore it abated. 8. *H.* 4. 21. 2. E. 4. 25.

Amendment 21. A Diſpute is whether *Wagam* and *Vagam* are a material Variance. *wagam*, *Vagam.*

Count leſs than the Writ.

A Judgment given in a Writ of Annuity was reverſed, becauſe the Writ was, That Twenty-ſix Marks, Six Shillings, Eight Pence, was Arrear of the Yearly Rent of four Marks, and in the Count Six Shillings Eight Pence omitted, which is a Variance. 9. E. 4. 51, 54. Here the Poor man was puniſh'd for his Conſcience, becauſe he deſired leſs in his Count, than his Attorney had put into his Writ; and it is ſaid there, that is not Miſpriſion of the Clerk to be amendable, becauſe the Count is made by the Party, and not by the Clerk.

A world of other Abatements of Writs there are, too many to trouble at this time the Reader with, both as to Variances between the Writ and Count, and between the Writ and another Writ, between the Writ and Specialty, between the Writ and Teſtament, between the Writ, Count, and Specialty, between the Writ and Warrant of Attorney, *&c.* And the more Writs are abated, and Cauſes thereby overthrown, the more Money the Courts and Clerks get to ſend out new; but the more miſerably are the Poor by them oppreſs'd, and it were more merciful, in ſhort, to deny them Hearing, than to cauſe them to hazard and loſe all that little they have, and at laſt not to be Heard. This miſchief of Writs was firſt invented by the College of Prieſts at *Rome*, and were called *Formulæ Juris*, which is, little Forms, or diminutives of Forms; the little Forms were thoſe we call Writs, the greater Forms, whereof the leſſer pretended to be as the Contents of the Chapters, were, what They called Libels, and We Bills and Declarations. Theſe *Formulæ* though ſet up by the Prieſts for their Gain, were contrary to the Law of the Twelve Tribes, in regard *Oblatio Libelli* being by that Law to precede *Vocatio in jus*, as before is ſhewn, theſe Writs or *Formulæ* were uſeleſs, and the Forms of Libels were ſufficient to direct the People themſelves, and better than the other which were ſo rigorous in their punctilios of Formalities, *Ut cadente Syllaba caderet Cauſa*; theſe Forms therefore of Original Writs of the Prieſts were totally aboliſhed by *Juſtinian*, *lib.* 2. *tit.* 58.

Original Writs aboliſhed by *Juſtinian*.

De Formulis & impetrationibus Actionum Sublatis.

Juris Formulæ aucupatione ſyllabarum inſidiantes cunctorum Actibus radicitus amputentur. Dat. X. Calend. Feb. Conſtantio III. & Conſtantio II. *A. A. COSS.*

Let Forms of Actions inſidiating by hawking at Syllables in all mens Suits, be cut up by the Roots. *Baldus* Notes on the place, *Quia ſupervacuæ Formulæ ſunt ſublatæ, & non oportet Actiones à Pontificibus impetrare, ſed ſufficit eas apertè proponere*, and very well againſt this inſidiation of Writs

Writs in Words and Syllables, agrees the expreſſion of *Iſa.* 29. 21. *They make a man an offender for a word, and lay a ſnare for him that reproveth in the gate, and turn aſide the Juſt for a thing of nought.*

The like to this of *Juſtinian* was done by that famous King *James* the *Fifth*, the great Juſtitiar of *Scotland*, where they had formerly their Writs as we have, till they were ſick of them, and able to bear them no longer, which was remedied by an Act of Parliament. *Jac.* 5 *p.* 6. *cap.* 75. The words of which Act follow, ordering a Copy of the Libel to the Perſon or dwelling Houſe.

The Ordour of Summounding all Perſons in Civil Actions.

Copy of a Bill or Declaration ſerved in ſtead of a Writ.

ITem, For eſchewing of great Inconvenientes and Fraude done to our Soveraine Lordis Lieges, by Summounding of them at theire dwelling places, and oft times falſlie and gettis never knawledge thereof, It is Statute and Ordained, That in times cumming, quhair ony Officiar or Schireffe in that parte paſſes, at Commande of the Kingis Letters, or the Schireffes, Stewardes, Baronnes, or Baillies Precept, to Summound ony Partie, if they cannot apprehend them Perſonallie, they ſall paſſe to the Zett or Dure of the principall dwelling place, quhair the Perſon to be Summonde dwellis, and hes their actual Reſidence for the time, and there ſall deſire to have entreſſe, quhilk gif it be granted, they ſall firſt ſchaw the cauſe of theire cumming, and gif they cannot get the Party Perſonally, they ſall ſchaw their Letters or Precept before the Servandes of the Houſe, or other famous Witneſſe, and ſall execute their Offices and Charge, and thereafter ſall offer the Copie of the ſaidis Letters or Precept to ony of the Servands, quhilk gif they refuſe to do, that they affix the ſamin upon the Zett or Dure of the Perſones Summound; and ſiklike, gif they get na entreſs, they firſt knockand at the Dure Ser Knockes, they ſall execute their Office before famous Witneſſe at the ſaid Houſe and dwelling place, and affix the Copie upon the Zett or Dure thereof as ſaid is, quhilk ſall be leiful and

sufficient Summounding and delivering of the Copie, and the Party and Officiar sall not be halden to give ony uther Copie bot at their awin pleasure. And every Officiar in his Indorsation sall make mention of his awin Execution in manner foresaid, and the Partie at quhais instance the Letter or Precept is direct, sall pay to the Officiar Executour the Expenses of the Copie affixed as said is, and sall be taxed and given again to him the giving of the Decreet or Sentence, gif he happenis to obteine. And gif the Officiar bris foundin culpable in the Execution of his Office, he sall be put in our Soveraine Lordis Prison, and punished in his Person and Gudes, at the Kingis Grace Will.

Coke 4. *part* 99. saith, The *Common Pleas* may in many cases proceed against their own Officers by Bill without Writ, and why may not all the Subjects have the same Right, as well as the Officers of the *Common Pleas?* In *London* before the Mayor and Aldermen, Debt and Personal Actions are determined by Bill without Writ. *City-Law*, 3. And so are Assises of *Nusance*, *ib.* 4. and why may they not by Copy of the Bill be commenced better than by Writ, over all the Kingdom?

The mischiefs of Original Writs from the *Chancery*.

Besides the Delays of Original Writs and Process, by remoteness of Courts whither they are to be sent for, and by the multiplications of *Aliases* and *Pluries*, and the manifold dangers when gotten and executed, to be again overthrown and nullified by Abatements, for a multitude of frivolous Causes and Formalities, and likewise for so many sorts of Variances as before mention'd; of all which, the Declaration might have been free, if no Writ had preceded: (1.) It is excepted against Writs, that Declarations are not amendable, and it costs many times so much in amending the Misprision of Clerks in their Writs, that the Plaintiff if he is not so poor as not to be able, were better abate his own Writs and Declaration himself, and pay Costs, and buy Twenty new Writs, than get one of the old amended. (2.) Writs Original are altogether useless, except to get Money for nothing. (3.) They are saleable, contrary to *Magna Charta*, *Nulli vendemus Justitiam*, and the Civil Law, for *Lege Julia tenetur repetundarum, qui accepit aliquid ob Judicem delegatum dandum, mutandum, vel ob non dandum*, &c. And what doth a Writ of Right, a *Justicies*, or any Original do besides, but assign a Delegat Judg to hear the Cause in the *Kings-Bench*

or

or *Common-Pleas*, or *Lords-Court*, or *County-Court?* Then 'tis contrary to Equity, the Plaintiff ſhould be compell'd to buy a Writ, which is not only uſeleſs, but pernicious to his Declaration, and puts it in ten times more danger to be overthrown, than if he might, as he ought, be permitted to uſe it without a Writ, and the Plaintiff being to deliver a Copy of his Declaration, *Expenſis Actoris*, to the Defendant, 'tis no reaſon he ſhould be at any expence to pay Clerks for Writs impertinent. (4.) As to the Writ in *Chancery*, of *Subpœna*, which is to be diſtinguiſhed from the Writs to the Common Law Courts, it is contrary to *Magna Charta*, *Nulli negabimus Juſtitiam*; for if a Poor man Sue a Noble-man there, a Chancellour will deny a Poor man his terrible Writ, which he uſes to grant under a Hundred Pound Penalty, in *Terrorem Pauperum*, and he ſhall get no more of him, if he do that, at a greater price than the Writ would have coſt, but a poor begging Letter to the Noble-man, to ſend his Anſwer to the Complaint againſt his Oppreſſion; which is no other, than to bring into *England* the old Slavery of *Rome*, whereby no Slaves were permitted to Sue their Lords before the Prætor, or any other Judg, were their Tyranny over them never ſo great and unjuſt. What a wretched diſhonour is it to Publick Juſtice, which heretofore was blind to the Perſon, that ſhe turns now blind to the Cauſe, and who heretofore carried the Sword in her hand, *Parcere Subjectis & debellare ſuperbos*, to have now loſt her Sword and got a Crutch, to become only a blind Beggar when ſhe is to approach the Gates of Nobles? neither is there any Law of God or man in *England*, to juſtifie a Chancellour, that he ſhall preſume to uſe a different proceſs of Contumacy againſt the Commons, which he dares not uſe againſt the Lords; for if it be not lawful for him to Iſſue Attachments or Commiſſions of Rebellion againſt the Lords, or to impriſon them; then is it not lawful for him to Iſſue Attachments or Commiſſions of Rebellion againſt the Commons; for both are equally Intereſted in *Magna Charta*, and the Petition of Right, not to be impriſon'd without the lawful Judgment of their Peers, and they being both Allies and Confederates by the ſaid Acts to maintain the Commons Liberty; if the Commons be Invaded, though for the preſent ſuch Invaſion touch not the Lords, yet when it hath deſtroyed the Liberty of the Commons, the Lords will not be able to defend theirs, when their Allies are loſt.

Miſchiefs of the *Chancery* Writ of *Subpœna*.

Chancellour hath no Power to Impriſon Commons any more than Lords.

The Liberty of the Commons is the Outwork which preſerves the Liberty of the Lords.

The Liberty of the Commons is the Outwork which preſerves the Liberty of the Lords, the Liberty of the People is the Outwork which preſerves the Liberty of the Parliament, the Liberty of the Subjects is the Outwork which preſerves the Safety of the King; and as *Solomon* ſaith,

ſaith, *Prov.* 20. 28. *Mercy and Truth preſerve the King*; and if *contrariorum contraria eſt ratio*, Cruelty and Fictions of Writs of *Subpœna's* in *Chancery*, *Latitats* in *Kings-Bench*, and *Capiaſes* without Summons in *Common-Pleas*, wherewith they abuſe the Kings name in falſe impriſonments of his Subjects without Crime or Cauſe, deſtroys the Safety of the King himſelf; and in a Caſe between the Duke of *Lenox* and the Lord *Clifton*, *M.* 10. *Jac.* Though a Lord was not to be Committed for Contempt in a Poor mans Caſe, yet in this Caſe between two Lords, Chancellour *Egerton* ſaid, If Noble-men will commit Contempts, they are to be Committed. Now that the Imperial Power which hath been uſurped by Chancellors, to impriſon the Free-born Subject Arbitrarily at their pleaſure, is contrary to the Acts of Parliament, both of *Magna Charta*, and the Petition of Right, ſo late in memory, which aboliſh all Impriſonment both of Nobles and Commons, without the lawful Judgment of their Peers; ſo likewiſe is it contrary to all other Fundamental Laws of the Land, made for defence of the liberty of the People, which is more neceſſary and more dear than Life, as may appear by the Reaſons following, (1.) There is an Act of Parliament made, 15. *H.* 6. *cap.* 4. That none ſhall Sue a *Subpœna* until he find Surety to ſatisfie the Defendant his Damages if he do not verifie and prove his Bill to be true, this Statute had nipt in the Bud the Overflow of all thoſe innumerable Fictions and Falſities, which have ſince followed in the Suggeſtions of Bills in *Chancery*; for this being made, 15. *H.* 6. there is no mention made in all the *Year-Books*, of any quarrel between the Common-Law-Judges and a *Subpœna*, till 37. *H.* 6. which is above Twenty Years after, ſo great a Fright had this Act falling from the Supreme Power, put amongſt the Froggs, though now deſpiſed as a dead Logg, as likewiſe are all the reſt; and it is in vain to make more, unleſs the Honour of theſe is vindicated by the ſame Authority that made them; for Chancellors, as if *Jura negant ſibi nata*, they were two great to be bound by Acts of Parliament, though they have not the leaſt pretence to colour their Authority againſt theſe Three, the greateſt Acts for Security of the Subjects againſt falſe Impriſonments, that ever were made in *England*, for there is no Preſcription or Cuſtom of any Court can be alledged againſt an Act of Parliament, be it never ſo old; and there is no Pretence to alledg any againſt the Petition of Right, being in ſo freſh memory; and no longer ſince, than 3. *Car.* 1. they have trampled under foot the Authority of theſe Supreme Acts, and all lawful Judgments on them. (1.) To lay Fines on the Subject, thus *Trin.* 3. *Jac.* did Chancellour *Egerton* impoſe a Fine on Sir *Thomas Themilthorp*, for not performing his Decree

Chancellour hath no Authority to impoſe a Fine.

Decree concerning Land of Inheritance, and Eſtreated the ſame into the *Exchequer*; and upon Proceſs againſt him, the Party appearing pleaded that the Chancellour had no Authority to impoſe a Fine; the Attorney General *Petiit adviſamentum Curiæ*, concerning the Authority of the Chancellour, and on mature advice, It was adjudged, That he had no Power to Fine in the Caſe, *Coke 4th. part*, 84. (2.) To Extend; according to which pretended Power, the ſaid Chancellour Decreed againſt *Waller* certain Lands, and for not obeying the Decree impoſed a Fine, and upon Proceſs out of the Court of *Chancery* extended the Lands that *Waller* had in *Middleſex*, whereupon *Waller* brought his Aſſiſe in the Court of *Common-Pleas*, where the Opinion of the whole Court agreed *in omnibus* with the Court of the *Exchequer*, *ib.* (3.) Not only to proceed to Impriſon the Subjects on falſe Suggeſtions, without taking any Surety of the Complainant, according to the Statute, to verifie his Bill, but without ſo much as taking his Oath of Calumny to his Bill, and have further preſumed ſo high, as by their Edicts and Orders of *Chancery* (which they have not the leaſt Authority to make) to order the Subjects to be Attached and Impriſon'd on every Affidavit of any Knight of the Poſt, and no Probation to be admitted to the contrary; and if while the Innocent Party is impriſon'd, being remote from his Home, and ſuffering great Loſs and Damage by this his falſe Impriſonment, he ſhall at length offer to prove the Affidavit falſe, and Knight of the Poſt perjur'd, he ſhall be diſcharged, but without any Coſt, for the great Service the Knight of the Poſt did the Court to Forſwear himſelf againſt the Priſoner, whereby they get ſome Fees: See here, a Chancellour, in defiance of Three Acts of Parliament, without any Sureties, without any Oath of Calumny, without any Judgment of Peers, publiſheth in ſight of the Sun his abominable Orders, to caſt into Priſon the moſt Innocent Perſon on the falſe Affidavit of every Perjur'd Knight of the Poſt, yea a ſingle Affidavit, as appears by the Orders of the Chancellour and Maſter of the Rolls, Printed 1669. *Page* 67. and yet they pretend *Page* 65. under the Title of Commitment, that they are tender of the Liberty of mens Perſons, and of their Impriſonments on Affidavits, and confeſs they are often Malitious, and made by one mean and ignorant Perſon; yet in the ſame breath, *Page* 67. as if they ſoon forgot, or underſtood not what they ſaid, in the beginning of their Order, they, the next leaf conclude, That a ſingle Affidavit of ſuch a malitious, mean, and ignorant Perſon, yea though he is proved afterwards to be Perjured, ſhall be ſufficient to Impriſon the Innocent Subject; and when he again gets out of Gaol, if he can let the Innocent

Party

Party be indamaged his whole Eſtate, he ſhall not have a Farthing Coſt for the falſe Impriſonment; and obſerve the depth of the Reaſon why, given by a Chancellour, and (as the Printed Orders ſay) with advice and aſſiſtance of the Maſter of the Rolls. 'tis this, as appears *Page* 68. at the top of the leaf, *viz.* IN RESPECT OF THE OATH MADE AGAINST HIM AS AFORESAID, that is to ſay, the Oath, though falſe, of a Villain Perjured, againſt the Innocent Perſon; for ſo is the implication of the Order, and likewiſe, though they durſt not ſay ſo in expreſs terms, yet ſo is the implicit *Non Obſtante*, notwithſtanding any Law of God or Man, or Acts of Parliament to the contrary. Doth not here a Chancellour aſſume the Omnipotent Power of the Pope, to diſpenſe with the Laws of God and Men, and aſſume a Power of Impriſoning the Subjects above the King and Parliament, yea contrary, and in contempt of their Laws? he doth; for the Law of God and Precept of Chriſt is known to prohibit the Impriſonment of any, without two Witneſſes at leaſt, and without bringing the Witneſſes and the Party accuſed face to face, that he may know them, and except againſt their Perſons or Teſtimony if he hath cauſe, which is never done on an Affidavit. And the Laws of the Land, *Magna Charta*, and Petition of Right, utterly prohibit all Impriſonment of the Subject on Affidavits, whether they are true or falſe, without bringing the Witneſſes and the Party face to face, and a Judgment on ſuch Teſtimony againſt him by his Peers; and if ſuch Evil Precedents be ſuffer'd to paſs without ſome example of Juſtice ſhewn on them, all Acts of Parliament which ever have been or ſhall be for protection of the Liberty of the Subject, will be vain and to no purpoſe. (4.) The Chancellour in the ſaid *Chancery*-Orders, Printed 1669. preſumes to do in the Court of Conſcience, what was never heard of to be done in the Courts of *Turks*, Infidels, or the moſt Barbarous Judicatories in the World; for he is not aſhamed publickly to give Licenſe to Curſitors and their Clerks to commit *Crimen Falſi*, which we call Forgery, by Antedating Writs, taking them out of Returns paſt, or of a former Term; by reaſon of which Forgery of Writs, and Forgery of Returns, Antedated *Capiaſes*, Proclamations, Exigends, and Outlawries Antedated have been likewiſe Forged, and Thouſands of Poor men unjuſtly caſt in Goals, and miſerably undone, without any Summons or Hearing; and theſe are likewiſe the damnable effects of the Chancellours Writs, by which, as by others, the Plaintiffs, ſo here the Deſendants, are deſtroyed without Hearing; and certainly theſe Crimes of Antedating and Forgery of Judicial Acts, though here Licenſed by Orders of Chancellors, and Protected by Courts, by not Licenſing

No Impriſonment ought to be, but where the Witneſſes and Party are brought Face to Face.

Forgery Licenſed in *Chancery*, thereby to Impriſon the Subject falſely.

Averments

Averments againſt them, are by the Civil Law, and Laws of *Scotland*, and of many other Nations, both of theſe, and Inſtruments, Death; and even by our own, the imbeſelling of a Record by a Clerk, and Counterfeiting of Fines, is Felony; and, if the ſecond time, ſo is the Forgery of Deeds, Writings, and Court-Rolls; and deſervedly, the Offender better deſerving death than a Robber on a High-way; and why any Crimes of this Nature ſhould be publickly Licenſed to the Ruin of all Truth and Juſtice, by any Chancellour in his *Chancery* Orders, is very ſtrange; the miſchievous effects of which ſaid Attachments on Affidavit, and Antedating Writs, and Forgery of Outlawries, are notoriouſly known, and not complained of here without good Cauſe and Teſtimony; and ſome particular experience of my own, to my loſs, who have (as well as others) ſuffer'd in an high degree by the falſe Affidavit of a Fellow, who Subſcribed and Swore it by a falſe name, and not his own, and likewiſe procured a Forged Outlawry antedated againſt me. (5.) It belongs not to the Chancellours Office to be a Judg of Equity, or to make Orders, Edicts, Laws, or Writs, and thereby to Impriſon the Perſons, and diſpoſe of the Lands and Goods of the Subjects Arbitrarily and at his Pleaſure. *Coke 4. part 82.* ſaith, That all Statutes which give Authority to the Chancellour to determin Offences in *Chancery*, are to be intended only in the Ordinary Court there, which proceeds in *Latine*, and is *Secundum Legem*, &c. and not in any Extraordinary Court which proceeds in *Engliſh*, *Secundum Æquum & bonum*, and 37. *H.* 6. 14 & 27. *H.* 8. 18. it is Reſolved, That the Court of *Chancery* Proceeding by *Engliſh* Bill, is no Court of Record, and therefore it cannot bind either the State of the Subjects Lands, or the Property of his Goods or Chattels, and therefore they there admit he may Impriſon the Perſon, which is not only a *Non ſequitur*, but a contrary concluſion follows on it, for if he cannot bind the Subjects Goods, *à Fortiori* he cannot bind his Perſon; *For the Life is more than Meat, and the Body is more than Raiment.* Luke 12. 23. And though thoſe Common Law Judges of *H.* 6. and *H.* 8. ſo ſordidly deliver'd the Subject Priſoner to the Chancellour, ſo as they might keep his Lands and Goods to themſelves, yet had they no more Law or Right to do it, than they had to deliver him Priſoner to the *Turks*, or to ſend him to the *Barbado's*; for the Subject is no Slave, neither ought he to be given or ſold for one, without his own Aſſent by his Repreſentative in Parliament; and having ſo good a Protection againſt the Chancellours and Common Law Judges, and the Orders and Writs of both, as *Magna Charta*, and the Petition of Right, both for his Lands, Goods, and Perſon, they ought to ſhew ſome greater Laws than their

It belongs not to a Chancellour to be a Judg of Equity in *England.*

Chancellour cannot bind the Subject's Goods nor Perſons.

Writs and Orders of Courts, or Forgeries of Clerks, before they preſume to invade either. (6.) There being no Law in *England* which ever Ordained a Chancellour to be a Judg of Equity, or to make Edicts or Orders concerning the ſame; he can pretend no Title thereto, unleſs from the Laws of *France:* and to that effect *Polydor Virgil* ſaith, The *Chancery* came in with the Conqueſt, to which, though my Lord *Coke* ſaith, *Perperam Erravit*, becauſe the *Mirror* ſaith, The Conſtitutions of the ancient Kings were, that every one ſhould have out of the *Chancery* of the King, a Writ Remedial for his Plaint without difficulty, yet he himſelf ſeems to be in the Error, and not *Polydore*, for though the name of Chancellour and *Chancery* was before the Conqueſt, and divers other Countries uſe the name of Chancellour as well as *England*, yet the greateſt part of the Writs came from *Normandy*, and are mention'd in their *Cuſtomary*, as who will peruſe it ſhall find, but as to the Writ of *Subpœna*, *Centum librarum*, and Arbitrary Power of the Chancellour, and to be a Judg of Equity, came firſt from the Conqueſt, and was never uſed before, nor did it belong to the Chancellour's Office, either of *England* or *Scotland*, that having other employment, and more than a Chancellour could do, though he never troubled himſelf with Judgment, but left the ſame to the Judges, to whom the King Delegated the cauſe by Writ, and this the very name of Chancellour teſtifieth, who was Originally no other than a Maſter of Requeſts to the Prince whom he ſerved, and on Petitions deliver'd to him by the Subjects, if unfit to be Granted, he ſtrook croſs lines over them like *Cancelli*, or Lettices, by which he Cancell'd them, and thence had his name of the Canceller or Chancellour, as *Turn. lib.* 11. *adverſ.* c. 25. and not according to that Fictitious Verſe of his Power,

Hic eſt qui Leges Regni Cancellat iniquas.

For when was ever any Chancellour in *England* allowed to Cancel any Roll or Act of Parliament? And when theſe Petitions for Juſtice were deliver'd by the People to this Maſter of Requeſts, call'd the Canceller of ſuch of them as were Evil, ſuch as were Juſt he Cancell'd not, but on behalf of the Petitioner, Granted the Princes Reſcript or Warrant to the *Præſes Provinciæ*, where the cauſe of Action aroſe, or the Defendant lived, for *Actor Sequitur Forum Rei*, which Reſcript or Warrant we now call a Writ, containing in it ſelf, (1.) *A Queſtus eſt nobis*, a ſhort recital of the Complaint. (2.) *Si A. fecerit te ſecurum*, a taking Security or Pledges of the Plaintiff, *de Proſequendo.* (3.) *A Summoneas*, or Summons of the Defendant to appear before the Prince

Prince himſelf, or ſuch Judges as he Delegated, though out of the Province or County where he lived, which was the Reaſon of taking Pledges of the Plaintiff, becauſe he made the Defendant appear many times Hundreds of Miles from his Home, when he might in thoſe days implead him before the Preſident or Sheriff, or Lord of the Barony in his County, unleſs he excepted Partiality, or other juſt cauſe againſt him. (4.) A taking of Pledges of the Defendant to appear. (5.) To make Return of the Writ; and leſt Writs ſhould be Counterfeit, the Chancellour was Keeper of the Seal, and Sealed them. It appears by the *Lex Julia de repetundis*, that the Maſter of Requeſts or Canceller, was not to take any Fees for theſe Writs, for giving or not giving a Judg out of the Province or County where the Defendant lived, for it was a great vexation and oppreſſion of the People to be Summon'd out of the Provinces on malitious Suggeſtions, without cauſe; and our own Parliaments in *England* have often complained againſt the ſame oppreſſion here by the Pope, on whoſe Citations and falſe Suggeſtions without cauſe, men were compell'd to give perſonal Appearances at *Rome*, as many and as often as he pleaſed, if any would but buy there of his Officers a Citation; and to prevent this vexatious exaction of Appearances on Writs, of men out of their own Counties, beſides the requiring of Pledges on all Common Law Writs, and the enjoining of Pledges to be taken in the *Chancery*-Writ of *Subpœna*, as in the *Lex Julia*, ſo is it mention'd in *Magna Charta*, *Nulli vendemus nulli negabimus Juſtitiam vel Rectum*, which is intended of a Writ of Right, and all other Writs, whereby Right is obtained; for if the Chancellour were not to take Fees, and ſell his *Subpœna's* and other Writs, he would not ſo often by them make men Travail thorough Nine Shires to *Weſtminſter* (when they may have better Juſtice done at home in their own County) on no other cauſe than Fictitious and Malitious Suggeſtions of the Plaintiff, and that he may take a Fee for the ſame, and he would Cancel according to his Office more Petitions and Bills than he would Grant; but aſſoon as Chancellours took Fees for Writs (which Sale of Right, 'tis likely, as *Polydore* ſays, came from the *French*) then no Suit could be begun without Writ, all were driven to *Weſtminſter*, Parties, Witneſſes, and Juries, unneceſſarily, and to no purpoſe but to inrich the Judicatories, and undo the People; in like manner the Plaintiffs and Defendants ought to give one another mutually Copies of their Bills, Declarations, and Pleas, at the expenſes of the Giver, which is very ſmall and eaſie to the Parties, and not to be compell'd to buy them of the *Chancery*, or Common Law Officers; ſo the Chancellour had neither his

Chancellour not to ſell Writs and Copies of Bills and Anſwers.

Juriſdiction to Judg of Equity, or his Sale of all the Judicial Parts of the ſame, and of the Law with it, from the Law of *England*, but *A-la-mode de France* from the Conqueror, till *Magna Charta* aboliſhed his Tyranny by the Judgment of Peers, and of his *French Contes*, by the 28. E. 1. *cap.* 8. by which Act that gallant King grants every County the free Election of their own Sheriff, after which the Land was free from the Chancellours Troubling men out of their own Counties by his *Subpœna's*, till *H.* 5. Conquer'd *France*, by which, as is uſual in other Conqueſts, ſome Touch of the Diſeaſes and Vices of the Conquer'd will be return'd on the Conquerors, and accordingly in the time of his Son *H.* 6. the *Subpœna* and a Chancellour with a Pretorian Juriſdiction pretended of Equity, with Power of making Laws, Edicts, and *Chancery*-Orders, and Forms of Writs, and to Sentence above all Appeal, all which Powers belonged to the *Roman* Pretor, of which the *French* Chancellour was the Ape, and Ours of the *French*; and this pretended Pretorian Juriſdiction ever ſince hath grown ſo much *A-la-mode*, partly by making Biſhops Chancellors, who pretended Supremacy in all matters of Conſcience, and had in their hands amongſt the Superſtitious the flaming Sword and Thunder-bolt of Excommunication, partly by their Power, overtopping and overawing the Common Law Judges, and partly by flattering the People with doing Juſtice in the *Engliſh* Tongue, which was very grateful to them (and would be as grateful now in the Common Law Courts if they could get it) the Chancellours contrary to the greateſt Fundamental Laws and Acts of Parliaments of the *Engliſh*, introduced on them a moſt lawleſs Arbitrary Power, and Servility of a Foreign Nation, to diſpoſe of their Lands, Goods, Perſons, Liberty and Propriety, at their pleaſure.

And what is more, have aſſumed like the old *Romiſh* Pretors the Power of making Laws, Edicts, Forms, Writs, Obligatory to the Subject's Perſons, Lands and Goods; for *Coke* on the Queſtion, In what Text the Common Law is to be found, ſaith, *In Forms of Writs, and Forms of Entries, in Courts of Records.* And *Bracton* ſaith, *Breve ad ſimilitudinem Regulæ Juris Formatum.* So who aſſumes the Power of making Writs, Judicial Edicts, Forms and Orders, aſſumes the Legiſlative Power, notwithſtanding, and above Acts of Parliament, to diſpoſe of the Subject's Liberty and Propriety at pleaſure; yet this have Chancellours done, Forming divers Writs in the Regiſter out of their own Heads, *Lamb. Archeion.* which always are Formed for the greateſt Profit of the Clerks and Courts which make them, and not of the People, and Epiſcopal Chancellours have ſo far in time of Popery deceived Parliaments, that *Weſtm.* 2. *cap.* 24. gives the Clerks of the *Chancery*

as

as good as Power to make what Writs they will, and the pretence is inſinuated by the Clerks, *De cætero non recedant quærentes à cur' Regis ſine remedio*, or *Ne Curia Regis deficeret in Juſtitia exhibenda*, whereas none who underſtands the leaſt part of the Forms of Judicial Proceeding there is, who doth not know that the Kings Court if he pleaſe may do far better Juſtice, if all the new Writs made by Clerks, and all the old Writs in the Regiſter were made a Bonfire all together, and none but Copies of Declaarations ſerved without them, then 'tis poſſible to do with them; which Delegation of Power to Clerks to make Writs, muſt be void; for the making of Forms of Writs, Edicts, or Orders, is an Act of Legiſlation; and to give Votes in Legiſlation, is a Perſonal Office of Truſt repoſed by the People in their Repreſentative Elected by them; and by the known Law, no Office of Truſt can be Aſſigned, Granted over or Delegated; if the Parliament therefore pleaſe to enact themſelves any Judicial Forms or Orders of Proceeding, they ought to be obeyed as Laws; but it would be a great injury to the People, if they ſhould Grant over the Office of Truſt in them, to a Chancellour and Clerks never Elected or Intruſted by the People. Let a *French* Chancellour be therefore what he will, 'tis clear no *Engliſh* Chancellour ought to be a Pretor, Judg, of Equity, maker of Laws, Edicts, Forms, or Orders of Judicial Proceeding, nor any Chancellour of *Scotland*, the full of the matters of both whoſe Offices, though they may differ in the Fees, are mention'd *Stat. Mal.* 2. *cap.* 2. that is to ſay, (1.) To Seal Writs. (2.) To Seal the Kings Pattents, Grants, and Commiſſions. (3.) Preſentations to Churches. (4.) Pardons to ſuch Malefactors as deſerve them; which Statute of *Malcom* 2. *cap.* 2. follows in theſe words,

Chancellour of *England* or *Scotland* no Pretor.

(1.) Item, *They Ordained to the Chancellar the Fie of the Great Seal, that is, for ilk Chartour of an Hundreth Pound Land, and above that, the Fie of the Seal Ten Pounds, and to his Clerk for the Writeing twa Markes.*

(2.) Item, *For ane Precept of Suiſing conform to the Chartour, to the Chancellar for the Fie of the Seale ane Mark, and to his Clerk twa Shillings.*

(3.) Item, *For ane Letter of Attornay or Protection, for the Fie of the Seale Twelve Pennies; and to the Clerk for the writeing Thrie Penniet.*

(4.) Item, *For ane Brieve cloſed with Walx, to the Chancellar Sex Pennies, and to the Clerk for writeing Thrie Pennies.*

(5.) Item, *For ane Letter of Remiſſion given by the King for the Slaughter of a man, to the Chancellar 40 Shillings, and to his Clerk for the writeing Sex Shillings Aucht Pennies.*

(6.) Item,

(6.) Item *For ane Letter of Preſentation to ane Kirk, or to ane Hoſpital, to the Chancellar* 40 *Shillings, and to his Clerk for writeing Aucht Pennies.*

(7.) But that part of the Office of the Chancellour of *Scotland* which concerns Original Writs, is ſince Reformed, and all Writs Abo-
Only Seven Writs left in *Scotland.* liſhed, except Seven, which *Skene de verb. ſign. tit Breve* recites thus, *But Seven Forms of* Brieves *allanerlie are now commonly uſed,* The Firſt, *The Brieve of Mortancestrie.* The Second, *The Brieve of Tutorie.* The Third, *The Brieve of Idiotry.* The Fourth, *The Brieve of Terce.* The Fifth, *The Brieve of Line, or Lintation of Lands and Tenements within Burgh.* The Sext, *The Brieve of Diviſion.* The Seventh, *The Brieve of Perambulation. Quhair of the Three firſt* Brieves *are Anſwer'd, and retour'd again to the Chancellary, and the uther Four receives na retour'd Anſwer.* And in all other, Actions, inſtead of Writs, by an Act of Parliament of *James* the Fifth, after mention'd, the Defendant ought to be ſerved with a Copy of the Declaration to begin the Suit.

Only one Writ in *Wales* for Real Actions. In *Wales*, and ſome parts of the *North*, they Trie all Real Actions by a *Quod ei deforceat.*

Writs pull men out of their Houſes, Beyond Sea. (8.) The miſchiefs of Writs are, they pull men out of their Houſes before Judgment, contrary to the Civil Law; *ff. ſiquis in jus vocatus non ierit l.* 21. *de Domo ſua nemo extrahi debet*, which is expounded by *Bartolus*, *Invitus quis de domo non debet extrahi, ſed ibi exiſtens poteſt verbaliter citari, & contra contumacem fit Miſſio in poſſeſſionem.*

(9.) Writs help not for any matter riſing beyond Sea, unleſs by Fiction of the place beyond Sea to be in *England*; ſo honeſt men are without Remedy, and only Liars obtain it.

No Oath of Calumny can be to a Writ. (10.) No Oath of Calumny can be given of a Writ, whereby it becomes full of Falſities and Fictions, but to a Bill in *Chancery* or Declaration, an Oath of Calumny may be given, which will purge it from all Falſity and Fiction, if no Writ; but if there is a Writ falſe, it will compell the Declaration to be falſe, becauſe it will otherwiſe be abated for Variance from the Writ.

(11.) Writs make Declarations to be of double length, and contain two Declarations, one a vain repetition of the other, for 7. *H.* 6. 47. In every Action on the Caſe, the whole Cauſe of Action at large ought to be contained in the Writ, for it is not ſufficient to have a general Writ and ſpecial Count, whereby the Party is compell'd to Enter, and the Defendant to Copy a double Declaration of huge length, and often twice as long as a *Chancery* Bill; and Four Judges on Demurs to have each a Copy, and of the whole Proceſs, to the intolerable Charge of Suitors, and Gains of Clerks and Officers of Courts, though it be but a trifling Action for Words, or the like.

(12.) Writs

(12.) Writs muſt paſs the hands of Under-Sheriffs, who often times will delay and betray them as long as the Party will give them Money.

(13.) The old Writs which are in the Regiſter, and all the new which have been coined or joined by Chancellours or Clerks, are defective and inſufficient to ſupply Juſtice in the multitude of Caſes which happen.

(1.) Becauſe the greateſt part of the Writs of the Regiſter are Antiquated, and never uſed, but remain as Forms out of Faſhion, and matters as unprofitable Lumber.

(2.) All real Actions are thrown aſide; and the truth is, Lawyers are ſo ignorant how to manage them, that, like the old Lion in his Den, they draw all their Clients into *Chancery*, whence *Veſtigia nulla retrorſum.*

(3.) The two old Principal Writs of *Droit Patent*, and *Novel Diſſeiſin*, the one to determine the Right, the other the Poſſeſſion; no Lawyer now knows in them to join the *Miſe*, or arraign the Aſſiſe, any more than he doth when he talks of *Robin Hood* to Shoot in his Bow, whereby the two chief Writs, which diſpatcht more Juſtice than all the reſt, are utterly loſt.

(4.) It is as impoſſible for a Chancellour and Clerk, though they make in their *Officina Brevium* a Thouſand Forms of Writs more than they have, to fit with them all that want Right, any more than for a *Shoe-maker* in his *Officina Calceorum*, though he hath a good ſtock of Shoes ready made, to all the Feet with them which want Shoes; yea more impoſſible; for the Shoe-maker makes his Shoes of ſoft yielding Leather, his Straps or Buckles open or ſhut them wider or cloſer, his Shoeing-horn, Weeſel-skin or Fiſts, draw, pull, and thump them off and on, and many pretty tricks and Inſtruments he hath to curry, ſhave, ſtretch, punch, oil, water, and ſtand them on the Laſt, to accommodate them for the Foot, but a Chancellour makes all his Writs of *Iron* or *Latine*, and puts in them ſo many Gravels of Fictions, Falſities, broken Words, Repugnancies, Abſurdities, Nonſenſe, that it kills or creeples any Caſe to walk from its own Home to *Weſtminſter.*

(5.) That there is an intolerable defect in Writs to ſupply Juſtice to the People, appears in this, That though all Originals come out of a Court which intitles it ſelf a Court of Conſcience and Equity, yet there is not one Writ to Remedy a particular Caſe of either, nor any Action on the Caſe, for a Caſe of Conſcience or Equity ariſing from the Moral Law of God, but all fall down and worſhip the Themis or Great Idol of the Ceremonial Law of Man, of Livery and Seiſin, Fines,

Fines, Recoveries, Inrollments, Writings, Seals, Forms of Entries, Forms of Pleading, Forms of Words, Fictions, and the like, which are not able to give a Right to the leaſt foot of Land or handful of Goods, nor any other Law than the Moral Law of God of Truth and Equity; neither if theſe Writs were Formed according to the Truth and Equity of the Moral Law of God, is it poſſible a ſufficient number ſhould be Formed, for Writs are finite, and Caſes of Equity infinite, and not to be put in Writs, or written, except by God, in the Fleſh'y Tables of the Heart, and in the Spiritual Tables of the Soul it ſelf, and Conſcience.

It will be asked, How could they ſubſiſt before *H. 6.* without a *Sub pœna* and Equity from a Chancellour, ſeeing the Common Law Writs could not ſupply it; and what expedient is there now how Equity may be ſupplied? To which I anſwer, That Equity was then ſupplied by the Writ of Right, and *Juſticies*, the Titles of both which Writs ſignifie Equity; and likewiſe other Writs, and the General Iſſues Formed on them, of the *Meer Right*, *Not Guilty*, *Null Tort*, *Null diſſeiſint*, *Nihil debet*, guided the Jury to find according to Right and Equity, by the Moral Law of God, and not the Ceremonial Law of Man; till the Judges, to wreſt the Power belonging to Jurors into their own hands, brought in the Tender of the Demy mark, to turn the Iſſue of meer Right into a Poſſeſſary Iſſue, and inſtead of Truth brought in the Fictions of Colours, deſtroyed the *Juſticies* by *Writs of Remover*, gave way to falſe Laying of Counties in Tranſitory Actions, changed *Venues*, granted new Trials, abated Declarations for Variance from the Bond, and not Sueing for what was paid, as well as for what was not, granting Arreſts of Judgment after Verdict, and not permitting to demur firſt to the Law, and after to plead to the Fact before Verdict, prohibited on the Iſſue *Not Guilty*, matters of Juſtification to be given in Evidence, admitted Demurs to Evidence, admitted ſpecial Verdicts, cauſed Juries to be of an even and not of an odd number, and the Verdict not to be according to the Plurality of Votes; and many other ways they had to weary Juries from giving a Verdict according to Conſcience and Equity, or when they had ſo given it, to ſame.

I conclude therefore, to compell men to Commence Suites by Writs in the preſent Age, is to condemn them without Hearing of the Equity and Merits of their Cauſe; and to compell them to revive again thoſe Ancient Writs, and trie Equity by Juries, hath many great inconveniences, before mention'd to be incident to all Writs, eſpecially ſuch as are Antiquated and not underſtood; but all theſe miſchiefs are

ſalved

ſalved by Commencing Suites by a Copy of the Declaration Sworn, in ſtead of a Writ, which cannot be Sworn, and a Judg Commiſſionated with Juriſdiction of Fact, Law, and Equity, under Appeal, which ſingle Judg in a Court by himſelf ſitting without Vacation, as a Chancellour hath Power to do, will, no doubt, be able to diſpatch more Cauſes without troubling any Writs, Jurics, or Councel at the Bar, and more juſtly and under Account in one Year, then 'tis poſſible for any Chancellour with Plurality of Offices, or Court with Plurality of Judges, Juries, and Counc.l at the Bar, to do in Seven.

(6.) Men are condemned before Hearing on the *Capias Utlagatum*, and *Excommunicato Capiendo*.

A Satyr on a Papiſt *and a* Proteſtant *Impriſon'd, one on an Outlawry, the other on an* Excommunicato Capiendo, *againſt Impriſonment before Hearing.*

A *Papiſt* and a *Proteſtant*
Who uſed, when they met, to Rant
About the Altar and the Rail,
Were both together Clapt in Gaol:
The firſt was catch'd by an Outlawry,
The laſt whoſe Conſcience did vary
From Biſhops and their Common Prayer,
As Felon or a falſe Betrayer,
Was therefore Excommunicate,
And put to beg within a Grate.

Pap. Brother then quoth the *Papiſt* ſad,
Are *Proteſtants* too grown ſo mad
To have an Inquiſition here;
Who thus can, though no cauſe appear,
Forfeit our Goods and Selves at will,
In Priſons cold to ſtarve and kill
Before they Hear us? doeſt not know
Amongſt our ſelves it is not ſo:
Who by Experience wiſer grown,
Will Inquiſition now have none?
Witneſs the Rich *Venetian*,
And wary *Dutch*, who late began

For Liberty against such Lords,
And *Swisse*, with their two handed Swords.
For this Proud *Aragon* Rebell'd;
And *Naples* Silk-men hardly quell'd,
And many more abhor'd such Tricks,
Yet are they all good Catholicks.
So *Holland* justly now prevents
Imprisonment of Innocents,
And makes (to help the Poor oppress)
Before a Judgment no Arrest.
Is this the *Charta*, and of Right
Petition, for which you fight?
That every Torney and his Clerk
(Who use to live upon the shark)
Forge all the Outlawries they please,
Remedies worse than the Disease,
And, that Poor men may be betray'd,
First Forge the County where 'tis laid?
They Forge and Antedate the Writs
Of Parchment cut in little Bits,
Then next they Forge the Sheriffs name,
And Forge Returns upon the same:
They Proclamations Forge and Feign,
And Exigends next without pain;
And all this Knavery you may spie
Page Sixth of the *Academy*,
Which is their Mother and their Nurse,
Teachers to Forge and Steal of course.
Such Clerks deserve hanged to be
As *Nicholas* Clerks upon a Tree;
And thus, though made them to prevent,
They fool all Acts of Parliament;
For no Averment must deny
The Shrieve or Clerk, although they lie.
Is this the Liberty so proud,
(You use to cry it up aloud)
And Property you so much Vant
That every *Papist* it doth want?
What Purgatory can you tell
Is worse than this on Earth, your Hell?

Or

Or what Hell is there more worth fearing,
Than Your Damnation without Hearing?
He neither ſhews me Time or Place,
Nor Witneſſes brought Face to Face.
My Goods are all Confiſcated;
My very Wives and Children's Bed
The Bailies Seiſed, without account
Of Price to what they did amount,
Or Witneſs; Writings, Boxes, Cheſt,
And Money too on a Suggeſt,
And Lies and Fictions; in worſe caſe
I am than Felons in this Place,
Their Goods, although the Law is ſtrict,
Not Forfeit are until Convict,
But left to feed them: Oh the bleſt
Juſtice is ſhewn to men diſtreſt
By *Proteſtants* who only, you
Say, have the Religion true!
But Chriſt ſays, *Know them by their Works*,
Which ſhews you worſe than *Jews* or *Turks*.
I have not left a Bit of Bread,
Witneſs theſe unfeign'd Tears I ſhed:
The Plaintiff asks of me a Sum,
As at the Dreadful Day of Doom
I anſwer ſhall, and God doth know,
I do not him a Farthing ow;
Yet can I not, although I try,
Be brought to anſwer or deny
His Forged Stuff, or ſee the Face
Of Judg or Jury on the Place;
But here to periſh am deſigned,
And to this Dungeon confined,
Unleſs I give what e're he'l ask;
This is my miſerable Task.
I think you now turn Witches too,
The Rogues the miſchief who did do
To bring me here, ſure had a Spell,
(What Language 'twas I cannot tell)
'Twas written in a little ſcrow,
Half-words and daſh't, that none might know;

Or rat'er ſcratch'd it was in Soot,
With Devils Claw, or Cloven Foot.

Prot. Brother, y ur ſelf when Caught you find,
In ſnares for others you deſigned,
Learn, Who ill Principles extends
Againſt his Foes, deſtroys his Friends;
And when for us you dig a Pit,
You are the next fall into it.
It was your Church, what er'e it ſaith,
Law-*Latine* left, and *Latine*-Faith;
And Babbled without Mood or Tenſe
In Church and Court, and without Senſe,
That blind might lead the blind, and they
Rob ſo, all paſs'd through their dark way,
You before Hearing firſt did Curſe,
And Oulaw too to take a Purſe,
Of which too late you now complain,
And we to help have tri'd in vain.
The *Papiſt* too brought Fictions in,
And Forgery that fouleſt Sin;
The *Papiſts* too were the firſt ſharks,
And ſate in Courts, Biſhops and Clerks.
And left their Curſed Preſidents
Of Forms, for their wicked Intents;
Which ſtill continue now, and you
As well as we begin to Rue,
At leaſt the Poor of either ſide,
Though they touch not the Prelat's Pride:
And if you Periſh by the ſame,
Who but your ſelves now can you blame?
The *Proteſtant* at length Eſſai'd,
Although by greater Power diſmai'd,
Forms, Fictions, and Forgeries,
By *Papiſt* left to blind the Eyes
Of Juſtice and Religion,
And in a Language ſtill unknown,
And the High Places of old *Baal*,
Which did both Souls and Bodies Thrall,
To take away, and teach their Youth
Worſhip in Spirit and in Truth:

And

And Justice too, by those who swayed,
In a True Ballance to be weighed;
For Fictions and Forgeries
Come from the Father of all Lies;
But still the *Protestant* in vain
To Supreme Power did complain,
While *Popish*-Peers in Parliament,
And Pensioners, the Publick Rent
Force from the Common's Skin and Bones,
It was in vain to make our moanes.
From Justice then, with many Jeers
You kept, and first made us shed Tears;
Although deceived in your hope,
Perhaps now from your selves they drop,
And you and we suffer alike,
From strokes which you and us did strike.
Am I not in as bad a Case
As you within this Dismal Place?
And me to make yet in a worse,
They Outlaw may, as well as Curse.
You have unto the Dreadful Doom
Of God Appeal'd, which is to come,
You nothing owe; I to the same
Appeal, and his most Dreadful Name,
I have committed no Offence
'Gainst men, nor 'gainst my Conscience,
For which I'm Sentenc'd to lie here,
And be your Fellow-Prisoner.
Who Rule the Conscience can, but God?
Or who can change it with a Nod?
I see not when the Bishop winks,
Or if I think not as he thinks,
Or cannot by Implicit Faith
Believe what e're the Bishop saith:
Is't just, because that I cannot,
I should lie here to Starve or Rot?

Pap. Brother, I'le freely tell my mind,
And say where *Protestants* are kind
To Catholicks, in Recompence,
They each enjoy their Conscience;

And I

And Toleration hath united,
Not only those before Recited,
But bloody Wars could not be ceased
In *Germany*, 'till Conscience eased
On each side was, in the same Nation,
By a mutual Toleration.
The like in *Hungary* was acted,
And no Peace there could be transacted
Between the Emperor and them,
'Till Grafted both on the same Stem;
And many other like appear,
Too many to be Cited here,
They are not Commons, but our Peers
Who set us both now by the Ears;
They Pensions take from *Rome* and *France*,
Poor Us to *Tyburne* to advance;
And with some part when 'tis espi'd
They Pardon, Buy, and us Deride:
Why then should *English* Freedom miss,
More than our Neighbour *Dutch* or *Swiss*?
Or Driven be to Gaol or Church,
Conscience and Justice both to Lurch?

Prot. Brother, I'm not so void of Sense,
As Punishment on Conscience
To wish, who in so high degree
Suffer for it my self, you see:
But on what Terms the wiser State
Will both Religions Tolerate,
I cannot tell; or if no fears
They have of Poor, but only Peers,
I know not: only this I say,
We should small Prudence then bewray,
To trie for others, and in vain,
'Till our own Liberty we gain.

Pap. Yet we in this do both agree,
Though Toleration none there be;
And both alike for this contend,
That whether he is Foe or Friend,

Yet

Yet before Hearing he ought not
In Cruel Priſon Starve or Rot;
And *Magna Charta* none can be
Of Property or Liberty,
Unleſs 'tis in the ſame Expreſs't,
Before a Judgment no Arreſt.

(7.) The Three Kingdoms condemn one another without Hearing, by a Non-Union of their Three Parliaments.

Of the Fatal Danger threatning all Proteſtants, by the Diviſion of the Three Parliaments of England, Scotland, *and* Ireland, *and the ineſtimable Benefits enſue the Union of the ſame in one Houſe.*

Unleſs the Supreme Judicatory is rightly conſtituted, to Judg between the King and his Subjects, Church and Church, Kingdom and Kingdom, Nation and Nation, Poſſeſſion and Succeſſion, and between one Subject and another, it is in vain to conſtitute inferior Judicatories to any of thoſe great ends of Preſervation of Religion and Juſtice, Peace and Truth, Liberty and Propriety; for there being no Supreme equal Judg conſtitute, there will be no inferior Judg equally conſtitute; and being no equal Judg Supreme or inferior, if Kingdoms happen to become Plaintiffs and Defendants one againſt another, for Religion or any other Quarrel, they are neceſſitated to condemn one another without Hearing, becauſe they agree not by what Judg they will be heard, but will, like the *Scythians*, worſhip the Sword and Fortune for the Gods and Judges of the World, and begin their Sute one againſt another with Execution by the unjuſt *Capiaſes* and Outlawries of War, and Proclamations of the ſame by the Trumpet.

(1.) Firſt therefore the great danger theſe Three Proteſtant Kingdoms lie under, is, If any Papiſt ſhould again (as they have by their perpetual Plots hitherto endeavour'd to) kindle a Civil War, there can be no Judg equal Elected by them able, without the Perſons Elected ſit in one Houſe, to puniſh the Incendiaries and prevent the War.

Succeſſion of the Crown divided by divided Parliaments.

(2.) If the Succeſſion of the Crown ſhould happen to become contentious between Competitors, and the Parliaments continue as they do, divided in ſeveral Houſes, and ſeveral Places, the Three Kingdoms, if they depart from the immutable Moral Law of God, either to the Eccleſiaſtical Laws of their ſeveral Churches, or to the Temporal Laws of

of the ſeveral Kingdoms; they may each have ſeveral Laws, Privileges and Cuſtoms of Succeſſion one from another, and the Houſes of Lords may have different Cuſtoms and pretences to Judicatories from Houſes of Commons, and the Epiſcopal Aſſemblies and Synods may pretend ſeveral Rights of Judicature from the Law-Courts, ſo every Kingdom may happen to be divided in their Sentence of Succeſſion, and one to Judg it to *A.* another to *B.* another to *C.* the Houſe of Lords in one to Judg it to *D.* in the other to *E.* in the other to *F.* the Houſe of Commons to Judg it in one to *G.* in the other to *H.* in the other to *I.* the Epiſcopal ſynod to Judg it in one to *K.* in the other to *L.* in the other to *M.* The *Perſians* did better, who made but one Judg, though 'twere an Horſe, by firſt Neighing at the Sun-riſing, to declare his Maſter Succeſſor to the Crown of *Perſia*, than to diſpute it with Thouſands of Men and Horſes vomiting their Votes in Blood. How joyfully would *Rome* Triumph in the Spoils of Self-divided Proteſtants ſlaughter'd with their own hands! This would be the ſad effect of divided Parliaments, divided Houſes, and divided Kingdoms, according to what Chriſt himſelf declares, *Matth.* 12. 25 *Every Kingdom divided againſt it ſelf, is brought to deſolation: and every City or Houſe divided againſt it ſelf, cannot ſtand.*

(3.) It divides the Head from the Bodies, for a Prince cannot be Omnipreſent; if he is in Perſon with any One of his Parliaments, the other Two are without their Head; but if the Three Parliaments are united in one Body, then is there one Body, and one Head.

(4.) The Head which is ſeparated from any of the Bodies is inſenſible of the Pains, Diſtempers and Dangers of thoſe Bodies from which it is ſeparated; thoſe Members who are Elected as Natives of *England* to ſerve in Parliament, cannot be but ignorant of the true State of *Scotland*, and *Ireland*, and *Scotland* and *Ireland* of one another, and both of the true State of *England*; but when they ſit altogether in one Houſe, they can inform one another, and his Majeſty, and give him a full proſpect at once of the true State of all his Kingdoms, and the Affairs in them.

Parliaments divided delayed with Nine Negatives.

(5.) Parliaments divided by Hundreds of Miles diſtance by Land, and paſſage over Sea, are moſt dangerouſly dilatory in all Affairs of War, and all other matters concerning publick ſafety; for every Vote to raiſe Money, or if it be but to relieve a Garriſon, muſt paſs Nine Negatives, or Nine Affirmatives, Three in the Parliament of *England*, Three in the Parliament of *Scotland*, and Three in the Parliament of *Ireland*, before which will be paſſed and executed, Nine Towns may be taken.

(6) This

(6.) This Dilatory danger of Diviſion of Houſes ſufficiently appears in the Higher and Lower Houſe, though neither divided by Lands nor Seas. And how much Time is waſted in fruitleſs Meſſages from one to another, till the opportunity and what is contended for is loſt! whereas if they had ſate in one Houſe, and the Matters to be carried by plurality of Votes, there muſt have been an expeditious Diſpatch. *Coke* mentions ſome Records, wherein appears, that when there was a neceſſity of Levying Money for a War, the Commons would aſſent, and the Lords refuſe, *Rex accerſitis Regni Baronibus tractabat cum iiſdem de Regni Regimine, deq; pecuniali ſubventione ſibi ferenda; ſed proceres regiis votis tum minime paruere. Et* 18. *E. nu.* 14. The Commons Granted Money, but the Lords would Grant none. In the time of *H.* 4. the Commons would have Granted an Aid, but *Subſidium denegatum fuit Proceribus renitentibus. Walſingham* ſaith, *p.* 475. *His diebus clerus & populus primo quintam decimam & poſtmodum triceſimam bonorum ſuorum Regni* Angliæ *in ſubſidium conceſſerunt.* So here is no mention made of the Lords, which is always done when they give; whereby it ſeems they evaded the Subſidy. 29. *Eliz.* The Commons deſired the Lords they would join with them in a Contribution or Benevolence to the Queen; the Lords gave Anſwer, They would leave the Commons to themſelves, and they would Rate themſelves; which they did at the Rate of Two Shillings in the Pound. The like 13. *E.* 3. *n.* 7. *b.* 18. *E.* 3. *n.* 10. 20. *E.* 3. *n.* 11, 27. *E.* 3. *n.* 8. 4. *R.* 2. *n.* 13. When the Houſe of Commons had offer'd to grant an Aid, if the Clergy, who had the Third part of the Land, would pay the Third part of the Aid; the Clergy Anſwer'd, They were not to pay Aid by Parliament, but will'd the Commons to do their Duties, and they would do their own. All which Examples ſhew, That more Houſes than one are a great clog in all matters concerning Publick Safety; and a far greater are many Parliaments remote one from another.

(7.) There can be no Pledges given of Peace and Unity, but by the Union of Parliaments, wherein each Nation in One Houſe, give themſelves as Pledges of Amity one with another.

(8.) There can be no Love without it, which is the greateſt Bond of Union, for, *Ignoti nulla Cupido*; how can they be acquainted, where they can neither ſee nor hear one another, and how can they Love where they are not acquainted?

(9.) Parliaments United ſtrengthen one another againſt the common Enemies, like the Cable made of many Cords, which holds the Ship of the Commonwealth at ſafe Anchor, againſt all the fury of Winds and Waves, and cannot be broken; or like the Arrows when bound in a Sheaf, invincible; when ſeparated, eaſily broken.

(10.) When separated, either Parliaments, or Houses, it is easier for Enemy-Princes to corrupt Members with Money; for, it is easier for the Shepherd to watch one Fold, and secure it against the Wolf, than many; the corruption likewise is easier of Messengers between Parliament and Parliament, and House and House, than of the Members, who may easily in travelling have opportunity of spreading false News, Bruits and Rumors, and cause thereby Misunderstanding between the King and his Parliament, and People, and between every Parliament and House one against another; whereas there need no Messengers, if only one House of Parliament.

Secrecy of Union.

(11.) The more Parliaments and Councils there are, the less Secrecy; there was at *Rome* but one only Senate, and what *Livy lib.* 48. mires at, there was no Privy-Council for matters of State allowed, but all matters of Peace and War were transacted in the Senate prudently enough (though *Livy* hesitate as to the Prudence) and the Secrecy of this great numerous Senate was so close, that none of the Ambassadors of *Greece* or *Asia* could fish out, either by Friends or Money, amongst so great a number of Senators, what *Eumenes* his business there (who had Audience in the Senate), was; a thing impossible to be done, where there is a Senate and a Privy-Council, or a Plurality of Supreme Senates.

(12.) One dissentient Parliament or House standing divided, may clog or betray the Defence of the rest; it is already mention'd how often Dissention between the Higher House and House of Commons have stopt Military Provision against the common Enemy; and how often fell it out in the same manner at *Rome*, That when Recruits and Supplies were to be sent to an Army in the Field, Discords were importunately raised between the Senate and the Tribunes of the People, whereby the Enemy commonly obtained his Design of Stopping the Raising new Forces against them; for the Tribunes of the People sate not in the Senate, but were a divided State, having a Negative on their Votes, but no Vote with them, and were indeed a most imperfect constitution of Defensors of Liberties against Senators permitted to be Hereditary, and was no way to be remedied, unless the People had taken on them the Election of the Senators, as is now done by such Nations as have the Liberty of Parliaments; but if Two dissentient Negatives, or Houses, or Parliaments, are joined together in one House, where the matter is to be carried by Plurality of Votes, there dissentient opinions of the several Members are so far from hurting the Publick, as they do the same much Good: First, by the contrary Dispute of the Question, the Truth is the better understood; Secondly, When two

Extremes

Extremes contend, they commonly moderate one another, and produce a more temperate Sentence, than if the whole Senate were all of the ſame mind, without any Faction; ſo, as long as *Cato* and *Cæſar* made Orations one againſt the opinions of the other in the Senate, it mitigated them to moderation; and it was the Contention in the Field and not in the Senate, cauſed ſo much miſchief to the Publick; which could not be avoided in ſuch a Senate which was no equal Repreſentative Elected by the People, but ſome Senators, ſo diſproportionable in Power, as *Cæſar* and *Pompey* were to the reſt.

Strength of Union.

(13.) Though Confederacy of Foreign Princes ought not to be neglected, yet the Confederacy of the Three Parliaments by Union in one Houſe, is a far greater aſſiſtance, than of any Three Foreign Princes Confederated and living in Foreign Palaces; and ſuch Three Proteſtant Parliaments in one Houſe, and under one Proteſtant King, are (by Gods help) of greater Strength and Councel than any Three Catholick Kings, and the Pope with them, if they ſhould wrongfully confederate againſt the Proteſtant.

Examples of Union of Parliaments.

(14.) All theſe, and (no queſtion) more dangers of Diſunion, and Benefits of the Union of Parliaments were foreſeen to the Wiſdom of King *James* of famous memory; and how zealouſly the deſire of ſuch an Union was preſs'd on him by him, between *England* and *Scotland*, appears by the Act, 1. *Jac. cap.* 1, & 2. And thereby Commiſſioners of each Nation were appointed to meet and Treat, and to reduce their Doings therein to Writings or Inſtruments Tripartite, every part to be ſubſcribed and ſealed by them, and one part to be deliver'd to the King, the other to the Parliament of *England*, the other to the Parliament of *Scotland*; this was promoted ſeveral times in the Houſe, and vigorouſly Seconded by many Noble Proteſtant-Patriots; after which, as appears, *Coke 4th. part*, 347. there ſtarted a queſtion amongſt the Commiſſioners, whether there could be made a new Kingdom of *Great Britain*, before there was made an Union of Laws, which Queſtion was, by Command of the King, refer'd to all the Judges of *England* in *Trinity Term*, *Anno* 2. *Jac.* who unanimouſly Reſolved, *Coke* being then Attorney General, *That* Anglia *had Laws, and* Scotia *had Laws, but this new Erected Kingdom of* Britannia *had no Laws*; and therefore where the Forms of all Judicial Proceedings of *England* are *Secundum Legem & conſuetudinem* Angliæ, it could not be alter'd, *Secundum Legem & conſuetudinem* Britanniæ; an Anſwer fitter for Protonotaries than Judges, as if no Union were poſſible to be made of Kingdoms, but by *Raſtall's* Book of Entries; whereas one word of a *Nuper* would have ſalved this horrible objection, and but two lines of a *Proviſo* in

A ridiculous Anſwer of Judges, touching Union of Kingdoms.

the Act of Union, might have made the Style of their Formality what they would have had it; but this unlucky Pedantry of Theirs was a fatal Scourge to *Great Britain*, for in all humane probabilities, if there had been then made an Union of Parliament, the late Bloody Inteſtin Wars had never been. 3. *Jac. cap.* 3. A Recital is made of the long and worthy Labours of the Commiſſioners of *England* and *Scotland*, and how, albeit all things had been by them fully and effectually purſued and accompliſhed, &c. Yet for that divers other matters required preſent Diſpatch by the Parliament, and the matters concerning the Union might be conſider'd as well any other Seſſion, therefore the ſame was defer'd for that time.

Anno 4. *Jac.* 1. An Act is made for Repealing certain Acts of Hoſtility, in former Ages made between the two Nations, where the Commiſſioners loſt all the Pains they had taken, to the diſcouragement of any other who ſhould thereafter attempt the like; ſo by the Power and Subtlety of the Popiſh Epiſcopal Party and Lawyers (all whoſe Intereſts a Reformation of Laws for *Britannia* would have croſſed) the whole buſineſs and Attempts of Union have been ever ſince obſtructed.

As for Examples, In former Hiſtories we find none more free than the *Romans*, to Naturalize their Aſſociates, and to make the Natives of the Provinces Citizens of *Rome*. The Grand *Seignior* takes into his Council the Natives of ſeveral Kingdoms, yea though Chriſtians, when once Educated in his Religion. The ſeveral States of *Greece* had not been able to have ſubſiſted againſt the *Perſian*, had they not United themſelves in one common Council of State, though their Laws and Commonwealths remained ſeveral. The *Netherlands* had been never able to have ſubſiſted againſt the *Spaniard*, had not the Provinces been United in one *Staads*-Houſe and Common Council; yet is not that Union perfect, they remaining ſtill under ſeveral Laws and Cuſtoms, and in the nature of ſeveral Commonwealths, and therefore not impoſſible to be again divided, as the *Grecian* States thereby were. So were it impoſſible for the *German* Empire to ſubſiſt againſt the *Turk*, were they not United in one Supreme *Dyet* and Common Council; for a Parliament of Kings in perſon, as the Electors are in Power, is better than none at all, and better than a Confederacy of Kings by Proxies, they remaining in their ſeveral Palaces; yet in many other reſpects the Union being of the Prelates and Princes, and not of an equal Repreſentative of the People, it is liable to perpetual dangers of Civil Wars, and the Dividing of one Prince againſt another, who may perhaps, as the Captains of *Alexander* the Great, and the *Italian* Princes, in the end ſet up every

every one for himſelf, there being nothing to hinder but the Terror of the Neighbouring *Turk*; whereas if the Union were conſtituted of an Emperor and Parliament equally Elected by the Peop'e, the Empire were invincible, for the Prince were then but one, and the Senate but one; but this is impoſſible to be performed, except in Proteſtant Dominions, for then muſt the Pope and Prelates be Caſhier'd, which no Catholick Prince can, or dare attempt. How great thanks do we therefore owe to God, who hath vouchſafed Proteſtants ſo great a Privilege, to Unite all their Parliaments, if they in blindneſs and ſtubborneſs neglect or refuſe not ſo great a Mercy, as perhaps may not again be ſo eaſily offer'd? The *Cantons* of the *Swiſs* could not ſubſiſt without being United in a Common Council for State-Affairs. So of the *Griſons*. Yet do the *Cantons* remain in the nature of ſeveral Commonwealths, with ſeveral Laws and Cuſtoms, which Union is very imperfect. *Livy lib.* 2. complains of this defect of Union of Councils in *Rome*, and ſaith, *Profecto ſi eſſent in Republica Magiſtratus nullum futurum fuiſſe* Romæ *niſi publicum conſilium; nunc in mille Curias Concioneſq; cum alia in Eſquiliis, alia in Aventino fiant Concilia, diſperſam & diſſipatam eſſe Rempublicam.* And by this doth *Tacitus* confeſs it was, that *Rome* Conquer'd *Great Britain*, *Nec aliud adverſus validiſſimas gentes pro nobis utilius, quàm quod in commune non conſulunt, rarus duabus tribuſq; Civitatibus ad propulſandum commune periculum conventus, ita dum ſinguli pugnant Univerſi vincuntur.* Neither (ſaith he) was there any thing ſo profitable for us againſt the moſt valiant Nations, as that they had no Common Council; a rare matter it was amongſt them to have a Convention of Two or Three Cities againſt the common danger; ſo, while they every one fought ſingle, they are all Conquer'd: Whereas if *Great Britain* had been then united under one King, and one Parliament of the whole Iſland, they perhaps might have as well ſaid of his ſecond Landing, as of his firſt,

Territa quæſitis oſtendit terga Britannis.

So doth *Juſtin* mention of the States of *Greece*, every one of them had at laſt their Councils apart, and fought ſingle, whereby, one after another, they were all overthrown. What hath United the Heptarchy of the *Saxons*, and the mixture of *Danes* inſeparably, but the equal Miſſion of their Repreſentatives to the ſame Parliament? and what did Unite the Noble Remainder of *Britains* to *England*, but the Statute of 27. *H.* 8. 26. Enacting, *That all Perſons born in* Wales *ſhould enjoy all Liberties, Privileges and Laws, as other Subjects in* England *do: and ſhould*

ſhould ſend their Knights and Burgeſſes to the ſame Parliament with them? The Glory of a King is the multitude of his People, and what more Glorious for a King, who hath the Royal *Engliſh*, *Scotiſh*, *Iriſh* and *Britiſh* Blood United in him, who is the Head, than to have the ſame United in his Parliament, who is the Body. Let it not offend, if I mention here the late Experience of Union of the Three Parliaments in one Houſe, by the late Uſurper, ſeeing we are commanded to learn Wiſdom, though from the Serpent; and if he under ſo great diſadvantages of Oppoſition, made great Benefit, the lawful Prince may make far greater thereby, and his Subjects likewiſe by his Favour participate of the ſame. I cannot deny that it was my Fortune, though I never ſought it, to be choſen for a County, and to ſerve in that great Convention at *Weſtminſter*, *Anno* 1656. called then a Parliament, wherein the Parliaments of *England*, *Scotland* and *Ireland*, were Convened and United in One, with the ſame facility as they are Convened to ſit in Three Places, and there being then a War deſigned againſt *Spain*, it was wonderful to ſee, with what Expedition and Courage all things were moved towards the Deſign, and what an Endearment it was between the Three Nations to meet, be acquainted, eat, drink, and converſe together, about the Common Concernments.

Having conſider'd ſo far of the great Benefits of an Union of the Three Parliaments of the Three Kingdoms in One, it may not be amiſs next to conſider the Requiſits neceſſary to perfect the ſame.

(1.) *Whether an Union of Crowns be neceſſary to perfect an Union of Parliaments and Kingdoms?*

It ſeems for the Affirmative.

(1.) Becauſe, where the Natural Perſon of a King is One, if the Politick Perſon or Capacity is not made One, the one Politick Capacity may be divided againſt the other, in the ſame Natural Perſon; as on the Succeſſion of King *James* to Queen *Elizabeth*, the Queen of *England* had declared War againſt the King of *Spain*, the King of *Scotland* was in Peace with them; ſo in the diverſe Rights of Two Crowns, there was War and Peace at one time between the ſame Perſons; the like Doubts may ariſe, Whether the Royal Aſſent may paſs contrary Politicks Acts and Laws in the Parliament of one Nation, to what he hath paſs'd in the other, in reference to the contrary Rights of each Crown: Whereas if both are conſolidated and made one, no contrariety of Acts can happen.

(2.) It

(2.) It is as dangerous to have Two Crowns, as Two Marble-Chairs; for they may be kept in ſeveral places, and the more eaſily may an Uſurper happen on the poſſeſſion of one of them, and the Vulgar be deluded to think Poſſeſſion of thoſe Signs of Supreme Honor, to be equal to the Right; and beſides that, a Fatality will follow them.

(3.) Seeing it hath pleaſed God to make the Head of the Three Kingdoms One, men ought to follow his Example, and make the Crowns One.

(4.) The continuance of ſeveral Crowns is apt to continue a perpetual memory of Hoſtilities between the Kingdoms.

(2.) *Whether an Unity of Proteſtant Churches is neceſſary, to an Union of Proteſtant-Kingdoms?*

It ſeems for the Affirmative;

Becauſe, if Proteſtant-Churches divide one againſt another, the Kingdoms will be a Prey to the Papiſt, and the Proteſtant will have none to Unite.

(3.) *Whether permiſſion of Proteſtants to Excommunicate Proteſtants, is conſiſtent with the Unity of Proteſtant-Churches?*

Neg.

If the Pope Excommunicate Proteſtants, it Unites them the firmer; but if they Excommunicate one another, they denounce War, and deſtroy one another with their own hands, and leave the Spoils to be divided by the Pope.

An Elegy on Proteſtants, in the late Civil Wars, Excommunicating Proteſtants.

Lugeat in triſidis jam maſta Britannia *flammis,*
Et doleat jam fulminibus percuſſa triſulcis,
Intonuit falſus nebuloſa Tybride Petrus,
Et Magicis ſtolidum perterruit Artibus Orbem.
Piſcator Tweda *retonat, multiſq; exchinnis*
Rupibus ingeminans ſua fulmina miſit ab Altis,

Becketi

Becketi *Lemures contra hunc torſere minaces,*
A Thamiſi *gelidas* Vulcania *tela per auras.*
Heu non Oceanus circum vaga Littora fuſus
Nec freta compeſcant tantis ardoribus ignes.
Riſit Romanus Tarpeia *Rupe Tyrannus,*
Cumq; ſuis, inquit, ſeſe immiſere Gebennis
Pontifices Britonum *per mutua vulnera tandem*
Ne ſic deficerent inferno gurgite flammæ,
Ipſe ſuper terram viventes igne cremabo.
Ecce jocum, mintrat mus rodens, Rana coaxat,
Et cum limoſis ineunt certamina juncis;
Milvus, ſpemq; ſuam motis circumvolat alis,
Ipſe paludoſam ſic vellem carpere Ranam,
Et ſic ridiculum vellem diſcerpere Murem.

Engliſhed.

LET *Britain* mourn, who burns in triple Fires,
And ſtruck with threefold Thunder-bolts expires,
A *Peter* falſe from Tyber in a Cloud,
By Magick Art did Thunder it aloud.
The Fiſher-man of *Tweed* with many Mocks
Return'd his Thunder double from the Rocks.
Proud *Beckets* Ghoſt 'gainſt him from *Thames* broke forth,
And with *Vulcanian* Darts fired the *North.*
What Ocean, which her wandring Shores doth drench,
Or Seas, alas! ſo many Flames can quench?
The *Romiſh* Tyrant on *Tarpeia* ſmil'd
To ſee the *Brittiſh* Prieſts thus both beguil'd.
When they have ſent each other unto Hell,
Saith he, by mutual wounds (hark what I tell)
Leſt they want Fire ſhould, in the Pit profound,
I will them both alive burn above ground.
Behold the Jeſt, the peeping Mouſe and Frog
With Bulruſh fighting are on Hill and Bog:
Like Kite, mean while, hid in a Cloudy Day
With ſoft mov'd Wings I'le ſoar about my Prey;
So I, at length, the Croaking Frog ſhall gull,
And Mouſe ridiculous in pieces pull.

I ſhall

I ſhall proceed next to the Form and whole Nature of Excommunication, and the further manifold miſchiefs it brings to all Proteſtant-Churches, which ſhews, Biſhops who uſe it, are neither fit Judges of Marriage, nor of any thing elſe.

The Form of the Jewiſh *Excommunication.*

By Decree of the Cities, and Command of the Saints, We Anathematize and Adjure, Exterminate, Excommunicate, Curſe and Execrate by the Will of God, and the Church, by the Book of this Law, by the Six Hundred and Thirteen Precepts written in the ſame, by the *Anathema* wherein *Joſhua* Anathematized *Jericho*, by the Curſe wherewith *Eliſha* Curſed the Children; and by the Curſe wherewith he Curſed *Gehazi* his Boy, and by the Excommunication wherewith *Baruch* Excommunicated *Merath*, and by the Excommunication which the men of the great Synagogue uſe, and by the Excommunication which *Rabbi Jehuda* the Son of *Rabbi Jehezkiel* uſed in this matter; and by all the *Anathemata's*, Imprecations, Burnings, Excommunications and Exterminations, which have been from the time of our Maſter *Moſes*, and ſince by the name of *Aeeheriel Jah* Lord of Hoſts, by the name of *Michael* the Great Prince, by the name of *Mittraton*, whoſe name is as the name of his Maſter; by the name *Sandalipon*, who Binds the Bindings by his Lord, by the name of the name of Forty-Two Letters, by the name of him who appeared to *Moſes* in the Buſh, by the name by which *Moſes* divided the Red-Sea, by the name of Four Letters, by the Writing which is Writon the Tables, by the name of the Lord of Hoſts, the God of *Iſrael*, ſitting on the Cherubin, by the name of the Sphæres and Circles, and the Holy living Creatures and Miniſtring Angels, by the name of all the Angels which Miniſter to the Supreme God, let every *Iſraelite* and *Iſraeliteſs* wittingly or willing violating any of the things denounced to be obſerved, be Curſed to the God of *Iſrael* ſitting on the Cherubims, let him be Accurſed by the Name Glorious and Bright, which the High-Prieſt expreſſeth in the Day of Expiations; let him be Curſed by Heaven and Earth; let him be Accurſed by the Omnipotent God; let him be Accurſed of *Michael* the Great Prince; let him be Accurſed of *Mittraton*, whoſe name is as the name of his Maſter; let him be Accurſed as *Aeeheriel Jah*, Lord of Hoſts; let him be Accurſed of the Seraphim and the Orbes, and Holy living Creatures and Angels who Miniſter before the Supreme God in Holineſs and Cleanneſs: If he was born in the Month *Niſan*, which the Angel called *Uriel*, as Prince of the Rank under which he is,

Governs, let him be Accurſed of him and all his Rank; and if he was born in the Month *Jier*, which the Angel called *Trephaniel*, as Prince of the Rank under which he is, Governs, let him be Accurſed of him and all his Rank; and if he is born under the Month *Sivan*, &c. (this Curſing runs through every Month one after another in the ſame words) Then follows, Let him be Accurſed of the Seven Angels ſet over the Seven Days of the Week, and of all their Ranks and helping Powers; let him be Accurſed of the Four Angels ſet over the Four Quarters of the Year, and of all their Ranks and helping Powers; let him be Accurſed of the Seven Palaces; let him be Accurſed of the Princes of the Law, in the name of the Crown; and in the name of the Seal; let him be Accurſed of the Great God, ſtrong and bright; let their be Confuſion of his Seed; let him fall with a ſwift Ruin; let the God, the God of the Spirits of all Fleſh, deſtroy and caſt him away; let the God, the God of the Spirits of all Fleſh, ſubdue him; let the God, the God of the Spirits of all Fleſh, overthrow him; let the God, the God of the Spirits of all Fleſh, keep him down; let the Wrath of the Lord, and a violent Whirlwind fall on the head of the Wicked; let the Angel of Deſtruction fall upon him; let him be Accurſed in all things to which he ſets himſelf; let his Soul depart in Terror; let him die of the Quinſey; let not his Breath go out nor return, with the Conſumption, Fever, Burning, Drought; let him be ſmitten with the Sword, with pining away, with the Jaundice, nor before his Deſtruction be freed from them; let his Sword enter into his heart, and let his Bow be broken; let him be as Duſt before the Wind, and let the Angel of the Lord ſcatter him; let his way be Darkneſs and Slipperineſs, and the Angel of the Lord perſecute him; let unlooked-for Deſolation come upon him, and let the Net which he hath hid take him; let them Expell him from the Light into Darkneſs, and from the habitual World they ſhall Baniſh him; Tribulation and Straights ſhall terrifie him, his Eyes ſhall ſee his own Deſtruction, and he ſhall drink the Wrath of the Almighty; let him put on Curſings as a Garment; let him devour the ſtrength of his Skin; alſo God ſhall ſcatter him for ever, and ſhall root him out of his Tabernacle: The Lord will not reſt to forgive him, but the Wrath of the Lord and his Jealouſie ſhall ſmoak againſt that man, and all the Curſes which are written in the Book of this Law ſhall lie upon him for Evil, out of all the Tribes of *Iſrael*, according to all the Curſes of the Covenant which are written in the Law. But you who adhere to the Lord your God, bleſs you this Day, he who bleſſed *Abraham*, *Iſaac*, *Jacob*, *Moſes* and *Aaron*, *David* and *Solomon*, and the Prophets of *Iſrael*,

Iſrael, and thoſe who amongſt the Nations are Holy, bleſs this Holy Congregation, and all other Holy Congregations: *Except* only He who ſhall break this Curſe, God of his mercy keep them and make them ſafe, and take them out of all trouble and miſery, and Prolong their Days and their Years, and ſend his Bleſſing and a proſperous Wind to the Work of their Hands; and let Him Revenge them ſpeedily with all other *Iſraelites*, and ſo let his Will and Decree be. *Amen.* *Seld. de Jur. Nat. & Gent. Juxt. Diſcip. Ebr. lib.* 4. *Cap.* 7. 527.

The Form of the Greek *Excommunication againſt Thieves.*

If they Reſtore not to him that which is his own, and poſſeſs him peaceably of it, but ſuffer him to remain Injured and Damnified; Let him be Separate from the Lord God Creator, and be Accurſed, and Unpardoned, and undiſſolvable after Death in this World, and in the other which is to come; let Wood, Stones and Iron be diſſolved, but not they: May they Inherit the Leproſie of *Gehazi*, and the Confuſion of *Judas*; may the Earth be Divided, and Devour them like *Dathan* and *Abiram*; may they Sigh and Tremble on Earth like *Cain*, and the Wrath of God be upon their Heads and Countenances; may they ſee nothing of that for which they Labour, and Beg their Bread all the Days of their Lives; may their Works, Poſſeſſions, Labours, and Services be Accurſed, always without Effect or Succeſs, and blown away like Duſt; may they have the Curſes of the Holy and Righteous Patriarchs *Abraham*, *Iſaac* and *Jacob*; of the Three Hundred and Eighteen Saints, who were the Divine Fathers of the Synod of *Nice*; and of all other Holy Synods; and being without the Church of Chriſt, let no man adminiſter the things of the Church, or Bleſs them, or give the Ἀντίδωρον or the Bleſſed Bread, or Eat or Drink, or Work with them, or Converſe with them; and after Death, let no man Bury them, in penalty of being under the ſame State of Excommunication, for ſo let them remain until they have performed what is herein Written.

The Form of the Popes *Excommunication againſt Queen* Elizabeth.

Pius, Biſhop, Servant of Gods Servants, *&c.* She (Queen *Elizabeth*) hath clean put away the Sacrifice of the Maſs, Prayers, Faſtings

Fastings, choice or difference of Meats, and single Life; she possessing the Kingdom, and by Usurping the place of the Supreme Head of the Church in all *England*, and the chief Authority and Jurisdiction of the same, hath again brought the said Realm into miserable Destruction. Unto her all such as are the worst of the People resort, and are by her received into safe Protection, &c. We do declare, That the said *Elizabeth*, and as many as stand on her side in the matter above-named, have incur'd the Sentence of our Curse: We also declare, That we have Deprived her from that Right she pretended to have in the Kingdom aforesaid; and also from all and every her Authority, Dignity and Privilege. We charge and forbid all and every the Nobles, and Subjects, and People, and others aforesaid, that they be not so hardy as to obey her, or her Admonitions, Commandments, or Laws, upon pain of the like Curse upon them: We pronounce, That all, whosoever by any occasion have taken their Oath unto her, are for ever discharged of such their Oath, and also from all Fealty and Service which was due to her by Reason of her Government, &c.

All the said Forms of Excommunications Wicked and Anti-Christian.

Forms of Excommunication Wicked and Anti-Christian.

As to which Forms of *Jewish*, *Greekish*, and *Romish* Excommunications, they are all Wicked, and liable to their several Exceptions. (1.) The *Jewish* and *Greekish* praying for Curses to Angels and Saints, fall into the Crimes of Angelolatry, Idolatry and Dæmonolatry; for it is manifest, if they on malicious Prayers of men do any Malefice to any of Gods Creatures, they are Evil and not Good Angels. (2.) They ramble together a company of Angels names, not knowing whether there are any of the Names or Offices they assign them, or not, or whether they are Angels, or Dæmons transformed. (3.) They pray for the Curse of *Gehazi*, which was to him and his Seed; whereas God declareth he will not punish the Sins of the Parents on the Children; therefore they can pray for the Curse of *Gehazi* to none but Dæmons. (4.) All the three Curses, both *Jewish*, *Greekish* and *Romish*, are Anti-Christian; for Christ commands to Bless, and not to Curse.

No such word as Excommunication in the whole Scripture.

I suppose therefore none will dare to use any of these Forms in *England*; nor if they are true Christians, will they dare to coin a Form of their own Heads, there being not so much as the word Excommunication used in the whole Scripture, nor Pattern or Precept of a Form from

from Chriſt, who gave a Form of Prayer to forgive Treſpaſſors, but none to Curſe or Excommunicate them. The Form of Proceeding to Excommunication is ſet down by ſeveral Writers concerning our Eccleſiaſtical Courts, as appears in *Linwood*, 500. That anciently when the King and the Sheriffs did continue Communion with the Excommunicates, or let them out of Priſon, contemning all the Keys of the Church, the Biſhop renewed his Sentence by the higheſt *Romiſh* Ceremonies of *Bell, Book* and *Candle*; for ſo is the *Canterbury* Canon, *Huic ergo morbo congruum volentes adhibere remedium, Statuimus quod Excommunicati ſic capti ac taliter exeuntes de Carcere ad majorem deteſtationem liberatorum & liberantium publicè & ſolemniter pulſatis campanis & candelis accenſis excommunicentur.* Theſe were the Form of Ceremonial Acts, but I find no Provincial or Common-Law-Author which ſets down any Form of words to be uſed in Excommunication; only there is a blind old Certificate of the Arch-Biſhop, *lib. Intra.* 320. in this Form recited, *Univerſis & ſingulis Juſtic' Domini Regis & aliis Chriſti fidelibus quibuſcunq; præſentes literas viſuris & audituris ſalut' & fid' indubium profecutionis adhiberi ſicut ovis morbida ab ovili penitus ejiciend' ne aliis infectiva reddatur: ſic Excommunicati ſunt à Communibus aliis excludend' ut ex hoc Cenſura Eccleſiaſtica magis teneantur, & Excommunicat' hujuſmodi rubor' confuſi ad reconciliac' gratiam citius inclinentur. Univerſitat' igitur veſtra notitiæ deducimus per præſentes quod frat' I. Prior Priorat' de L. noſtræ Dioc' propter ſuas manifeſtas & multiplicat' contumac' rebelliones & offenſas non parend' certis monitionibus licitis & canonic' authoritat' noſtra ordinaria ſibi fact' in Mens' M. ult. preteriti fuit & eſt majore Excommunicationis ſententia eadem noſtra authoritat' ordinar' innodatus & pro ſic Excommunicato publ' denunciatus, & eadem ſententia excommunicatus per immodica tempora perſeveraverit & perſeverat animo pertinaciter indurato, Dat' ſub ſigillo noſtro*, &c. But here is nothing ſhews the Form of the words of Excommunication uſed by the Arch-Biſhop.

This may as well prove *Bell Book* and *Candle* to be from Chriſt, as Excommunication.

The Form of the Arch-Biſhops Certificate of Excommunication.

In the late times of Uſurpation, *Aug. Anno* 1648. *cap.* 118. The new coigned Form of words of Excommunication appears to be this,

Form of words of Excommunication, 1648.

Whereas thou N. *haſt been by ſufficient proof convinced* (here mention the Sin) *and after due Admonition and Prayer remaineſt obſtinate, without any Evidence or Sign of true Repentance; Therefore in the name of the Lord Jeſus Chriſt, and before this Congregation, I Pronounce and Declare Thee* N. *Excommunicate, and ſhut out from the Communion of the Faithful.*

After the Denunciation of this Sentence, the People are to be warned, that they hold him to be caſt out of the Communion of the Church,

Church, and to ſhun all Communion with him; nevertheleſs Excommunication diſſolves not the Bonds of Civil or Natural Relations, nor exempteth from the Duties belonging to them.

If the Party after Excommunication ſhew Signs of Repentance, then the Form of Abſolution is appointed to be this, or the like,

Whereas thou N. *haſt for thy Sin been ſhut out from the Communion of the Faithful, and haſt now manifeſted thy Repentance, wherein the Church reſteth ſatisfied: In the name of Jeſus Chriſt, before this Congregation, I Pronounce and Declare Thee Abſolved from the Sentence of Excommunication formerly Denounced againſt Thee, and do receive Thee into the Communion of the Church, and the free Uſe of all the Ordinances of Jeſus Chriſt, that thou mayeſt be partaker of all his Benefits, to thy Eternal Salvation.*

The old Epiſcopal Forms of Excommunication being ſo groſs, as if publiſh'd, not able to clear off the Charge of Exceptions in that furious time of Conteſt made againſt them, the Anti-Power in the Forms before mention'd, ſcrewed their Wits to the higheſt, that they might ſo refine them, as if poſſible, no Exception might be took againſt them; for it matter'd not how the Form was, ſo they might obtain the effect of commanding the Temporal Sword by the *Excommunicato capiendo*, and continue to poſſeſs thereby the great Power and Profits incident, which have been before mention'd, to belong to Marriage, and all other points of Eccleſiaſtical Juriſdiction; yet there is always ſuch a Repugnancy in the mixture of Truth and Falſity, that never ſo artificially gilded over, the Flaws of the one will be viſible and lie open to Exception from the Solidity of the other. Againſt theſe Forms therefore as well as the former, may be the following Exceptions taken.

1. It is excepted againſt the Form of Excommunication, That it is in the name of Jeſus Chriſt, without ſhewing a Sign of Miſſion from Jeſus Chriſt; for *Jer.* 14. 14. It is ſaid, *The Prophets propheſie Lies in my Name; I ſent him not, neither have I commanded them, neither ſpake unto them.* And *Jer.* 27. 15. *I have not ſent them, ſaith the Lord, yet they Propheſie a Lie in my Name, that I might drive you out, and that he might periſh, ye, and the Prophets that propheſie unto you.* And 29. 9. *For they Propheſie falſely unto you in my Name; I have not ſent them ſaith the Lord.* So may a Prieſt of *Baal*, or a Papiſt Prieſt ſay, he Excommunicates in the name of the Lord, or in the name of Jeſus Chriſt, as well as a Presbyter, if he be not put to his Sign of Miſſion.

2. Here is a Civil or Temporal puniſhment of Excommunication or Baniſhment from Society, Sentenced or adjudged by this Form, without a Commiſſion ſhewn from the Magiſtrate or Tempor[illegible]ver;

which if ſuffer'd, that any without Commiſſion ſhould be a Judg, then every man would Judg in his own Caſe; which would be a confuſion of all Government.

3. This Form Excommunicates from Communion with the Faithful, and declares not who are the Faithful, or how they may be known.

4. This Form Excommunicates from the Church, but doth not ſay whether a Particular Church or the Catholick Church, or a National, or a Parochial Church, or Congregational Church; and being only Formed to be Pronounced by the Rector of a Parochial or Congregational Church, it is as improper to extend his Spiritual Juriſdiction to a National Church, as the Temporal Authority of a Petty Conſtable to a Kingdom.

The Form Excluding from Communion, declares not whether from Spiritual or Temporal Communion, or both; if Spiritual, it declares not whether from the Word Preached, or Prayer, or Sacrament; if from either, or all, the Interdiction of a Carnal man from Spiritual Communion is no Puniſhment, but he will rather rejoice in it than Repent, and had rather take the pleaſures of Earth than of Heaven; if it intend from Temporal Communion, then the Spiritual Perſon exceeds his Bounds to Judg of things Temporal; and beſides, the Comment deſtroys the Teut; for it declares, That Excommunication diſſolves not the Bonds of Civil or Natural Relations: Now all Temporal things are under Bonds of Civil or Natural Relations, therefore it cannot intend Excluding from Communion in Temporal Things; but indeed it is ſuch a Linſie-Woolſie of Spiritual and Temporal, that neither it ſelf nor any other knows what it intends; and ſuch an *Amphibion* of Fleſh and Spirit, none knows in what Element to place it.

6. Excluding from Communion, or Excommunication, is a word inſenſible; the old *Pagans* Interdiction from Fire and Water, the *Druydes* Interdiction from the Sacrifices, the great and leſſer Curſe of the *Jews*, the Phariſees caſting out of the Synagogue, the delivery by *Paul* to Satan, were all Words Senſible and Intelligible; but Excommunication is a Word without Senſe, Signification or Intelligence; no Wonder therefore if there is not ſuch a word in the whole Scripture, nor that men could never draw the Form of a *Chimera* without incongruity, which hath no Being in Nature, but in the vertiginous Notions of a Phrenzy. Excommunication a word inſenſible.

7. The ſame Ordinance of the long Parliament, in the Prayer appointed to be uſed with this Form of Excommunication, calls it the Ordinance of God; which is the ſame which is before-mention'd, *Jerem.*

Jerem. 14. 14. *The Prophets prophesie Lies in my Name, I ſent them not, neither have I commanded them, neither ſpake I unto them.* How can that be an Ordinance of God or Chriſt, which they never ſo much as ſpake, nor is the word to be found in the whole Scripture?

8. This Form brings in Popiſh Confeſſion of Sins to the Prieſt, and Penance, and Commutation-Money, and Puniſhment of one Sin Twice, firſt by the Magiſtrate, and then by the Prieſt.

(1.) *Of the Effects of Excommunication of the* Greek *Biſhops, either by Witchcraft or* Cheat, *on the Bodies of the Excommunicated; and of the Apples, Grapes and Nuts found in their Graves after Burial.*

(2.) *Of the Ghoſts called* Catechanæ, *returning into their Bodies after Death, in manner as into the Excommunicated.*

(3.) *Of Excommunication of Locuſts, Flyes, Fiſhes and Dead Bodies.*

(4.) *The Effects of Excommunication on the Soul ought to be contemned by all who fear God more than the Devil.*

(5.) *Of Excommunication of the Devil.*

Mr. *Ricant*, amongſt many other his rare Obſervations, Relates, *page* 277. That the *Greek* Chriſtians believe, If any Perſon die Excommunicate by the Biſhop, and not Abſolved, ſome Evil Spirit enters into the Body in the Grave, which Actuates and preſerves him from Corruption, in the ſame manner as the Soul informs and animates a living Body; and that they feed in the Night, walk, digeſt, and are nouriſhed, and have been found Ruddy in complexion, and their Veins after Forty days Burial, extended with Blood, and when open'd with a Launcet, have yeilded Blood as plentiful, freſh and quick, as that which iſſues from young and Sanguine Perſons; And it was informed him by a *Candiot Caloire* call'd *Sophronio*, a Preacher in *Smyrna* of great Repute and Learning, That a certain Perſon for ſome Miſdemeanours committed in the *Morea*, fled to the Iſle of *Milo*, and being Excommunicated died: In the mean time the Relations of the Deceaſed were much afflicted and Anxious for the ſad Eſtate of their Dear Friend, whilſt the Peaſants and Iſlanders were every Night affrighted and diſturbed with ſtrange and unuſual Apparitions, which they

they immediately concluded aroſe from the Grave of the accurſed Excommunicate; which according to their Cuſtom they immediately open'd, and therein found the Body uncorrupted, Ruddy, and the Veins replete with Blood, the Coffin was furniſhed with Grapes, Apples and Nuts, and ſuch Fruit as the Seaſon afforded: whereupon Conſultation being made, the *Caloires* Reſolved to make Uſe of the common Remedy in thoſe Caſes, which was, to Cut and Diſmember the Body into ſeveral Parts, and to boil it in Wine, as the approved means to diſlodg the Evil Spirit, and diſpoſe the Body to a diſſolution. But the Friends of the Deceaſed being willing and deſirous that the Corps ſhould reſt in Peace, and ſome eaſe given to the Departed Soul, obtained a Reprieve from the Clergy, and hopes that for a Sum of Money (they being Perſons of a competent Eſtate) a Releaſe might be purchaſed of this Excommunication under the hand of the Patriarch; in this manner the Corps were for a while freed from diſſection, and Letters thereupon ſent to *Conſtantinople*, with this Direction, That in caſe the Patriarch ſhould condeſcend to take off the Excommunication, that the Day, Hour and Minute that he Signed the Pardon, ſhould be inſerted in the Date. And now the Corps were taken into the Church (the Countrey People not being willing they ſhould remain the Field) and Prayers and Maſſes daily ſaid for its Diſſolution, and Pardon of the Offender; when one Day, after many Prayers, Supplications and Offerings, (as this *Saphronio* atteſted with many Proteſtations) and whilſt he himſelf was performing Divine Service, on a ſudden was heard a rumbling noiſe in the Coffin of the Dead Party, to the Fear and Aſtoniſhment of all Perſons there preſent; which when they had open'd, they found the Body Conſumed and Diſſolved as far into its firſt Principles of Earth, as if it had been Seven Years Buried: the Hour and Minute of this Diſſolution was immediately Noted, and preciſely Obſerved, which being compared with the Date of the Patriarch's Releaſe, when it was Signed at *Conſtantinople*, it was found exactly to agree with the Moment in which the Body returned to its Aſhes. And he after ſaith, Such is the much-to be-Lamented Poverty of the *Greek* Church, that they are not only forced to ſell Excommunications, but the very Sacraments; and to expoſe the moſt Reverend and Myſterious Offices of Religion unto Sale for the maintenance and Support of the Prieſt-hood. The ſame Author writing concerning the *Armenian* Church, *page* 439. ſaith, That Excommunication is as frequent amongſt them as the *Greeks*, by the Abuſe of which, the Prieſt procures the moſt conſiderable part of their Gains; nor is any Eccleſiaſtical Right performed, nor a Benefice

conſer'd without Money. And, *p.* 439. he ſaith, That amongſt the *Armenians*, the Penance on which Excommunication or Abſolution is to follow, being once impoſed by the Prieſt, no man can Remit, no not the Biſhop or Patriarch himſelf.

(1.) Hence is to be Obſerved, That the only Final Cauſes why the *Greek*, *Armenian*, *Romiſh* and *Britiſh* Popes agree to Exerciſe Excommunication, Penance and Abſolution, and to ſet Heaven and Hell to Sale for Commutation-Money, are only Covetouſneſs and Ambition; and thereby to Lord it more imperiouſly over the Conſciences, Lives, Liberties and Propriety of their Superſtitious Adorers, than any Temporal Emperor is able to do over his Vaſſals.

(2.) That 'tis the Prelate only pockets all the Money in the *Greek*, *Romiſh*, *Ethiopian*, *Muſcovitiſh*, *Ruſſe* and *Britiſh* Churches, and ſtarves the inferior Clergy, and the Parochial Prieſt in the *Arminian*; and that the Penance and Excommunication of the Parochial Prieſts muſt probably be heavier, and his Abſolution ſold dearer than the Pope's or Prelat's; becauſe the remoteneſs of the one, and the greatneſs of his Territory, and that he muſt thereby leave all to Under-Officers, and cannot Act in Perſon, cauſe his Inquiſitions not to be ſo ſtrict, but multitudes will find eaſie Evaſions from them; whereas the Parochial Prieſt having the narrow Bounds of his Pariſh always under his Eye, and within his reach, will not only ſwallow every Camel, but ſtrain at every Gnat which comes within his verge, for the advantage of his Petty Dominion and Gains.

(3.) That the *Greek* Popes are notwithſtanding but Poor, and the *Romiſh* Rich, becauſe the Grand *Seignior* being not Superſtitious, nor his Empreſſes, nor fearing ſuch counterfeit Fulminations as Excommunications, and his *Muftis* or Arch-Biſhops being only *Durante Beneplacito*, and his Pariſh-Prieſts Elected by the People without Conſecration or Ordination, and Independent one of another; neither the *Greek* Popes, Patriarchs, Biſhops nor Prieſts, nor his own, dare Excommunicate him; whereas the Chriſtian, both *Eaſtern* and *Weſtern* Emperors, their Empreſſes, Children and People, having been permitted to be perpetually Educated by the Popes in Blindneſs and Superſtition, he hath them, upon the matter, in the condition of *Sampſon* and *Polyphemus*, with their Eyes pull'd out, and makes them grind for him as he pleaſes, or with his Ecommunications ſends them packing (as they in their Ignorance think) to Hell or Purgatory, which makes moſt for his Gains and Profit, whereby he hath accumulated infinite Riches.

(4.) The Effects of Excommunication on the Bodies of Dead men, is either Witchcraft, or a Cheat; Witchcraft is poſſible to be ſometimes,

times, not always, as may eaſily be proved from the Raiſing of *Samuel* by the Witch of *Endor*, and an Hundred Hiſtories more related by Authors of unqueſtionable Credit. And as the Devil may ſometimes be permitted to abuſe the Bodies of the beſt men when Living, as he did *Job's*, and, what is the higheſt Example, Chriſt himſelf, carrying him to the Pinacle of the Temple; ſo he may when they are Dead. I ſhall Inſtance one only Example further in the Primitive times, mention'd by *Cornelius Agrippa de occult. Philoſ. lib.* 3. *cap.* 41. where he Relates out of the *Cretenſian* Hiſtory, That certain Ghoſts, which they call'd *Catechanæ*, were wont to return back to their Bodies and go into their Wives and lie with them; for the Avoiding of which, and that they might not annoy their Wives any more, it was provided by their Common Law, That the Hearts of them who did Ariſe, ſhould be thruſt through with an Awle, and their whole Carcaſſes be burnt to Aſhes. Theſe without Doubt are wonderful things, and ſcarce credible; did not thoſe Laws themſelves, and ancient Hiſtories witneſs them. The frequent practice likewiſe of *Necromancers*, by their wicked Art to call the Devil into a Dead Body, and take Reſponſes from him, confirm what hath been ſaid. And it may be likewiſe a Cheat; for it may be eaſie for the Prieſts to put Apples, Grapes and Nuts in a Coffin, and by Night to make fearful Noiſes, Shrieks, Groans, and Counterfeit Apparitions about Graves and Tombs; whence the horror of the very place, and darkneſs, make ſuch impreſſions on timorous Fancies, as they ſhall not dare to approach, much leſs examine the matter, and take out the new Body out of the Coffin, and put in one had been Buried Seven Years, and then a Vault made of purpoſe to make a noiſe under ground in the Church, and *Sofronio* know nothing of all this.

(5.) But whether it were Witchcraft or Cheat, it is moſt horrible wickedneſs to make Uſe of either, under pretence of Church-Diſcipline, or the Worſhip of God, ſeeing they both come from the Devil.

Alvarez, a *Portugal* Prieſt, Relates of himſelf, That at the Town of *Barva* in *Ethiopia*, there appeared a Terrible Cloud of an infinite number of Locuſts, which at length fell and Devoured the Countrey; and that he and another *Portuguez* Prieſt took a Conſecrated Stone, and the Croſs, and ſung the Letany, and in this manner went in Proceſſion through the Corn-Fields for the ſpace of a Mile unto a little Hill, and there he cauſed them to take a quantity of the Locuſts, and made of them a Conjuration, which he carried with him in writing, which he had made the Night before; Requiring them, Charging them, and

Excommunicating them, Willing them within Three Hours ſpace to begin to depart towards the Sea, or towards the Land of *Morez*, or towards the Deſart Mountains, and to let the Chriſtians alone; and if they obey'd him not, he called and adjured the Fowls of the Air, the Beaſts of the Field, and all the Tempeſts to ſcatter, deſtroy and conſume their Bodies: And for this purpoſe he took the quantity of Locuſts and made this Admonition to them that were preſent, in the name of themſelves, and thoſe which were abſent, and ſo let them go, and gave them liberty. The Locuſts began forthwith to depart, and in the mean while a mighty Tempeſt and Thunder aroſe toward the Sea, which drowned all the Locuſts in the River, and the dead Locuſts remained in heaps two Fathom high on the Banks; ſo by the Morning there was not one Locuſt left alive. This Excommunication, if true, were Conjuring and Witchcraft.

Flies Excomunicated.

Peter de Nathal. in vita Bernhardi Relates, That St. *Bernhard* denounced the Sentence of Excommunication againſt Flies; Whether this may be call'd Witchcraft, or a Silly Prank of St. *Simplicius*, I cannot ſay; but if he could Excommunicate Flies without a Magical *Teleſme* or Inchantment, he ſhall be the Domitian of Divinity. *Merc. Gallo. lib. 6. p.* 592. ſaith, That *Anno Domini* 1593. The Biſhop of *Conagtion* very malitiouſly Excommunicated the Innocent Fiſhes. *Theodoſius* a Biſhop of *Alexandria*, Excommunicated *Origen* Two Hundred Years after his Death; if he is cenſur'd only for a Cheat, 'tis leſs than ſo wicked a practice deſerves. Now though God may permit wicked men to Excommunicate, and *Dæmons*, Witches, wild Beaſts and Tyrants, to abuſe the Bodies of the beſt men after they are dead, they have no Power to touch the Soul. And we ought not to fear, but contemn their Excommunication; for ſo ſaith Chriſt, *Matth.* 10. 28. *Fear not them that can kill the Body, but are not able to kill the Soul; but rather fear Him which is able to deſtroy both Soul and Body in Hell.*

Fiſhes Excommunicated.

Dead Excommunicated.

Excommunication of the Devil.

Devils Excommunicated.

Mengus de Flagell. Dæmon. Deſcribes part of the Form of the *Romiſh* Exorciſm to be, *I Command you Oh Devils (who are come to the help of thoſe that vex this Creature of God* N.*) upon pain of Excommunication and Immerſion into the Lake of Fire and Brimſtone for a Thouſand Years, that ye yield no Aid and Aſſiſtance to theſe Devils.* It ſeems the Devil is of the Society of theſe *Romiſh* Prieſts; otherwiſe he could not be Excommunicated.

To

To grant a Biſhop Power of Excommunication, is to grant him the Legiſlative, Judicial and Executive Power.

Excommunication gives the Pope the Legiſlative Power over all Nations; for by this he made his Canon-Law, whenſoever he pleaſed, to be obſerved through Chriſtendom, by no other Obligation, than his Command they ſhould be obſerved on pain of Excommunication. By granting the Power of Excommunication, the Legiſlative Power is granted; and the Clergy in Convocation uſed anciently, without asking the Royal Aſſent, to make Canons touching matters of Religion, to bind not only themſelves, but all the Laity, without Aſſent of the Lords and Commons in Parliament. It was uſed in ancient time for Creditors, beſides other Security, to procure Debtors to Swear they would pay them, and thereupon there being then no Arreſt in the Temporal Courts for Debt, they Sued them in the Spiritual Courts on their Oaths; and they granted an *Excommunicato Capiendo* to Arreſt them without Bail; which were ſo frequent, that *E.* 1. could not keep his Servants free from Arreſt in his Court, till, to prevent it, he cauſed a Writ *De Promulgantibus Sententiam Excommunicationis Capiendis & Impriſonendis*, Commanding to Impriſon ſuch as Excommunicated any of them, *Rot. Parl.* 25. *E.* 1. *Intus. Henry* the Second, according to *Hovedon*, would, That all ſuch of the Clergy as were Deprehended in any Robbery, Murder, Felony, Burning of Houſes, and the like, ſhould be Tried and Adjudged in the Temporal Courts as Lay-men were. But *Becket* Arch-Biſhop of *Canterbury*, ſtood proudly on the Pontificial Prerogative of the Clergy, That no Clergy-man ought to be Tried, but in their own Spiritual Courts, and by men of their own Coat: And if they were Convicted before them, they ought only to be deprived of their Office; but if they after offended, they ſhould be Judged in the Kings Courts: This Power of Judgment he drew to his own Court, only by his Power of Excommunication.

A true tranſlated Copy of a Writ of Prohibition, granted by the Lord Chief Juſtice, and other the Judges of the *Common-Pleas*, in *Eaſter-Term*, 1676. againſt the Biſhop of *Chicheſter*, who had proceeded againſt, and Excommunicated one *Thomas Waterſfield*, a Church-Warden, for Refuſing to take the Oath uſually tendred to Perſons in ſuch Office, to Preſent ſuch who abſent from Church; by which Writ the Illegality of all ſuch Oaths is Declared, and the ſaid Biſhop Commanded to Releaſe and take off his ſaid Excommunication, *&c.* A Copy of a Prohibition of Excommunication.

Charles

CHarles *the Second, by the Grace of God, King of* England, Scotland, France, *and* Ireland, *Defender of the Faith,* &c. To the Reverend Father in Chriſt, *Ralph,* by Divine Providence Lord Biſhop of *Chicheſter,* or any other competent Judg in his behalf whatſoever, Greeting; *We are informed in our Court before our Juſtices at* Weſtminſter, *on the behalf of* Thomas Watersfield, *That whereas by the Laws of this our Realm of* England, *no Perſon ought to be Cited to appear in any Court Chriſtian before any Judg Spiritual, to take any Oath, unleſs it be only in Caſes Matrimonial or Teſtamentary: But whereas alſo by a certain Act in Parliament, began and holden at* Weſtminſter *the* 8th. *Day of* May, *in the* 13th. *Year of our Reign, and there continued till* Wedneſday *the* 30th. *Day of* July, *in the* 13th. *Year of our Reign aforeſaid; and from the ſame* Day *the Parliament Adjourned till the* 20th. *Day of* November *then next following; amongſt other things it was Enacted by the Authority of the ſaid Parliament, That it ſhould not be lawful for any Arch-Biſhop, Biſhop, Vicar General, Chancellor, Commiſſary, or any other Spiritual or Eccleſiaſtical Juriſdiction, to offer, tender or adminiſter to any Perſon whatſoever, the Oath uſually called the Oath* Ex Officio, *or any other Oath, by which ſuch Perſon to whom it may be offered or adminiſtred, might be burdened or compelled to confeſs or accuſe him or her ſelf of any Criminal matter or thing, whereby he or ſhe might be burdened with any Cenſures or Puniſhments: as in the ſaid Act amongſt other things it is more fully contained. Yet you the aforeſaid Biſhop after the Coming forth of this Act* (viz. *the* 23d. *Day of* July, *in the* 27th. *Year of our Reign*) *in no wiſe regarding the ſaid Law and Statute, at* Chicheſter *in the County of* Suſſex, *did offer and tender unto the ſaid* Thomas Watersfield, *being then Church-Wapden of the Pariſh Church of* Arundel *in the ſaid County of* Suſſex, *a certain illegal Oath* Ex Officio, *to be performed by the ſaid* Thomas Watersfield, *in a Cauſe neither Matrimonial nor Teſtamentary; by which the ſaid* Thomas Waters-

Watersfield *might be forced to accuſe himſelf of divers matters Criminal, and with which he might be Burdened with divers Puniſhments and Cenſures Eccleſiaſtical. In which Oath as it was then tendered, the ſaid* Thomas Watersfield, *ſhould with his utmoſt Diligence Preſent every Perſon, which then or lately was Inhabiting within the ſaid Pariſh of* Arundel, *who hath done any offence, or neglected any Duty mention'd in certain Articles contained in a certain Printed Book (which Book was then and there ſhewn by you the ſaid Biſhop to the ſaid* Thomas Watersfield) *and the ſaid* Thomas Watersfield *doth Aver, at the time of the Tendering of the ſaid Oath, and before and afterwards, ever ſince, and hitherto, That he hath dwelt and been Reſident in* Arundel *aforeſaid; and that in the ſaid Printed Book at the ſaid time, that the ſaid Oath was tendered to be performed, there was contained amongſt other things this Queſtion* (viz.) *Whether every Perſon Inhabiting or Sojourning within the Pariſh of* Arundel *aforeſaid did daily reſort every Lords-day and Feſtival appointed for Divine Service, to the Church? and whether they did there remain the whole time of Divine Service quietly, with Reverence, Order and Decency? and whether Church wardens, and Officers called Sides-men, did obſerve thoſe which came late after the beginning of Divine Service, or went away before the end of the ſame? and whether they did ſuffer ſome to ſtand idle or to talk in the Church-Porch, or to walk in the Church-Yard, during the time of Prayer and Preaching, or other Sacred Duties? And foraſmuch as the ſaid* Thomas Watersfield *did then and there refuſe to take the ſaid Oath; you the aforeſaid Biſhop did pronounce the Sentence of Excommunication upon him afterwards; that is to ſay, upon the* 23d. *Day of* July, *in the* 27th. *Year of our Reign aforeſaid, at* Chicheſter *aforeſaid; In Contempt of Us, and the manifeſt Damage, Prejudice, and Impoveriſhment of the ſaid* Thomas Watersfield, *and againſt the Form and Effect of the ſaid Statute, and the Common Law of this Our Realm of* England. *And whereas ſuch Pleas, by the Laws*

of

of England *of Right belong to Us, and not to You, We therefore being willing to maintain the Laws of our Crown, and the Law and Cuſtom aforeſaid, as by the Bond of our Oath we are bound to do, We forbid you; firmly enjoining you not to intermeddle or hold before you the ſaid Biſhop, the Plea and Sentence aforeſaid, as to any Anſwers in the ſaid Articles, concerning the ſaid* Thomas Watersfield, *or any thing from thence attempted: But that you Releaſe and Diſſolve all Decrees and Sentences (if any be) againſt the ſaid* Thomas Watersfield, *by reaſon of the ſaid Fulmination: And that you do abſolutely Releaſe him the ſaid* Thomas Watersfield *from all Decrees and Sentences, upon occaſion of the ſaid Fulmination.* Teſte *at* Weſtminſter *the* 6th. *Day of* May, *in the* 28th. *Year of Our Reign.*

Wurley.

The Suggeſtion on which this Prohibition is granted, remains Recorded in the ſaid Court of *Common-Pleas* in Mr. *Wurley's* Office. Roll 551.

Excommunicators Murderers.

John Hus, and *Jerome* of *Prague* held, That Prieſts ought to Preach notwithſtanding Excommunication; That Biſhops were Murderers, for delivering men over to the Lay-power for Diſobeying them; That ſuch Excommunication was a humane Invention, to maintain the Pride and Cruelty of the Clergy: And were Martyr'd for this and other Truths. The King ſhall be forced to Execute every Decree of the Pope or Prieſts with the Temporal Sword, though contrary to his Conſcience; otherwiſe he ſhall be Cenſur'd, if obſtinate, not worthy to hold his Crown. The Sheriffs of *England* are compell'd to be Sworn to Aſſiſt and Execute all the Commands of Biſhops, not excepting againſt the King himſelf; which is a moſt wicked Oath to be ſuffer'd. For though it doth not Swear in expreſs words, to give the Supremacy of the Temporal Sword to this Spiritual Sword of Excommunication (that the Prieſts were too ſubtle to have appear openly in their Form;) yet doth it require him to Swear what is Æquipollent, to aſſiſt and maintain the Biſhops and Commiſſioners of the Holy Church, as often as by them requir'd; whereby their Spiritual Sword is made the Imperant, and the King's Temporal Sword the Obedient. The Imperant hath Supremacy over the Obedient, as it is ſaid, *Rom. 6 16. Know ye not, to whom ye yeild your ſelves Servants to Obey, his Servants ye are to whom ye Obey?* Shall the Sheriff therefore be compell'd

Sheriff of *Englands* Oath.

Excommunicators Uſurp Supremacy.

compell'd to be a Traitor, to deliver the Temporal Sword intruſted in his hand by the King, to thoſe who aſſume that Luciferian Title of the Holy-Church to be Supreme above the King? which is point-blank contrary to his Oath of Supremacy, which obliges him to ſuppreſs with it ſuch a Rebellious Pride to the utmoſt of his Power. The Sheriff is likewiſe by the Law of *Scotland* to do Execution on Excommunicate Perſons, as appears. *Skene de verb. ſignif. tit. Schiriff*, whoſe words are, 'The Sheriff ſhall take and apprehend all Curſed and Ex-'communicate Perſons at the deſire of the Biſhop or his Official, and 'put them in Priſon untill they ſatisfie God and the Kirk, *Stat.* 2. '*Reb. Br.* ſpecially them quhahes remained under the Cenſure of Ex-'communication by the ſpace of Forty Days, *Quon. Attach. Rex tali*, 76. And by *Ja.* 2. *P.* 4. *cap.* 7. it is Enacted, 'That nane againſt quhome 'the Proceſs beis led be received in the Kings Caſtle or Place, or in his 'Preſence, nor admitted to Councel or Parliament, heard nor anſwer'd 'in the Law of Judgment of Fee and Heritage, or uther Cauſes; bot 'ever Eſchewed as Curſed, unto the time the ſaid Perſons cum to 'amendis, and aſſyith the Party, and obteine Abſolution in Form of Law. And *Jac.* 6. *p.* 3. *cap.* 53. in the Kings Minority an Act was got by the Kirk, 'That all Excommunicate Perſons not Conforming 'in Forty Days, ſhould be denounced Rebels, and put to the Horn. The *Engliſh* Commiſſioners in the ſaid late time of the Troubles had Inſtructions to take from the then Kirk, ſuch Letters of Horning, and not to aſſiſt any Excommunication with the Temporal Sword, which we performed accordingly. The King of *Spain* joined with *Tyrone* and the Rebels in *Ireland*, againſt Queen *Elizabeth*. And *Don John de Aquila*, Landing in *Ireland* with 4000 *Spaniards*, intitled himſelf Maſter-General, and Captain of the Catholick King, in the Wars of God, for holding and keeping the Faith in *Ireland*, only on pretence of Excommunication. *Sextus Quintus* the Pope of *Rome*, on the Invaſion prepared by *Spain* againſt *England*, *Anno* 1588. ſent out his *Cruſado*, as if againſt the *Turks*, and having paſs'd Sentence of Excommunication and Deprivation by his *Bulls* againſt Queen *Elizabeth*, promiſing Pardon of Sins, Heaven, and Eternal Life to all who di'd in the Invaſion.

Sheriff of *Scotland*.

(1.) To grant a Pope or a Biſhop Power to Excommunicate Proteſtant-Subjects, is to grant him Power to Excommunicate Proteſtant-Kings.

(2.) *To grant him Power to Excommunicate Proteſtant-Kings, is to grant him Power to Levy Money, Raiſe Soldiers, Denounce War, and Depoſe them.*

(3.) *Of the* Dilemma *of Danger threatning Princes who ſeek Security of Goverement from the Excommunication of Popes, or Biſhops, either over a People Religious, or Superſtitious.*

(4.) *Of the Impoſſibility of Security for Princes, unleſs their Subjects are Educated or Inſtructed to be free from the Superſtition of Excommunication, and to contemn it.*

(5.) *Of the Impoſſibility of obliging Popes or Biſhops, either by Benefits or Oaths.*

Excommunication is, as Proſcription, made a pretetence of Confiſcation without ſhewing cauſe. The *Romans*, ſaith *Aman. Marcellus*, proſcribed *Ptolomy* the then King of *Cyprus* being their Confederate, for no fault, only they wanted Money in the Treaſury; who therefore poiſon'd himſelf, and the Iſle became Tributary to the *Romans*: In the like manner do Popes and Biſhops fall on the Richeſt with their Excommunication, to fill their empty Purſes.

Pope *Gregory* the Tenth, Commanded *Perchsm* Arch-Biſhop of *Canterbury* to pay him Four Thouſand Marks within Four Months, on pain of Excommunication. So Excommunication is a ready way to Levy Money for War.

Anno 1230. The Pope having Excommunicated the Emperor, the Emperor was fain to pay for his Abſolution an Hundred and Twenty Thouſand Ounces of Gold, *Plat. Nam.* *Anno* 1231. The Emperor for memory of this hard Penny-worth for his Abſolution, put into a Pool at *Helbrand*, divers Pikes and other Fiſhes with Braſs Rings, having Inſcriptions of his name, and the Year of the Lord; one of the Fiſhes was taken up 267. Years after, *Ann. Suev. Calv.* *Henry* the Second, after that Traitor *Beckett*, the then Arch-Biſhop of *Canterbury*, had been Slain, though not by the Kings Command, was enjoined amongſt other things this Slaviſh Penance: He walked Three Miles bare-foot on the ſharp Stones, that he at length had ſo cut his Feet, they marked the ground with Blood every ſtep he went. And after this, which was worſe than Running the Gantilope, he Received of the Prieſts, Monks, Biſhops and Abbots, on his naked Fleſh ſo many Jerks with Rods (Oh brave Pedants and Pontifical Government for

for Princes!) as according to *Baronius* amounted to at leaſt Fourſcore Laſhes, which doubtleſs was the Number the *Jew* adminiſtred to the vileſt Rogues, leſt their Brothers ſhould be deſpiſed in their Eyes, and not heard to have been Exerciſed in their Eyes, and not heard to have been Exerciſed on the Prieſts, Biſhops and Abbots themſelves; though they kill'd and murder'd many Lay-men without Law or Juſtice, they incur'd only a deprivation; and inſtead of Hanging, which they deſerved ſometimes, no more than a ſuſpenſion Temporary *ab Officio.*

In the time of King *John*, *Anno* 1211. The Pope Excommunicated him, and gave the Kingdom of *England* to the King of *France*. *Paris Wend.* The Pope Excommunicated *Henry* the Eighth, and gave the Kingdom *Primo Occupanti.* Queen *Elizabeth* was Excommunicated by Three Popes, *Pius Quintus*, *Gregory* the Thirteenth, and *Sextus Quintus*. *Anno* 1308. The Pope Excommunicateth *Andronicus*, Emperor of the *Eaſt*, and ſetteth up the King of *Ruſſia* againſt him, *Bzou.* So he dealt alike with the *Eaſt* and *Weſtern* Emperors. Excommunications have brought the *Venetians* to extreme Straights formerly, therefore they are yet no Friends of it. *Dandalus*, Duke of *Venice*, was compell'd by Pope *Clement* the Fifth to Crouch under the Table Chain'd like a Dog, before he could obtain Peace for the *Venetians*. The Pope Excommunicated *John* King of *Navar*, and Granted his Kingdom to the *Spaniards*. *Nicephorus Phocas*, Emperor of the *Eaſt*, was Excommunicated by *Polyeuchus* then Patriarch of *Conſtantinople*, becauſe he had been God-father to a Child of *Theophania*, Wife to his Predeceſſor, and after his Predeceſſor's Death Married her. Pope *Zachary* depoſed *Chilperick* the *French* King, and gave the Crown of *France* to *Pepin*. The two *French* Kings, *H.* 3. and *H.* 4. who were Aſſaſſinated, had great Guards, whereby it appears, though Princes may ſecure themſelves in Vaults and Caves from Thunderbolts, yet can they not againſt the Biſhops of *Romes Ignis Fatuus* of Excommunication; but that to Aſſault them,

Per medios ire Satellites
Et perrumpere amat ſaxa potentius
Ictu fulmineo,

Eight Emperors were Excommunicated by Popes, who were theſe: *Frederick* the Firſt, *Frederick* the Second; *Philip Conrad*; *Otho* the Fourth; *Lewes* of *Bavaria*; *Henry* the Fourth; and *Henry* the Fifth. The Emperor *Henry* the Fourth Fought in Threeſcore and Two ſeveral Battles, and had for the moſt part Victory; he was Excommu-

nicated by the Pope, and to obtain his Abſolution, came Three Days together bare-foot to the Gates of the City *Canuſium*, where the Pope then was, and with much difficulty obtain'd it. The Catholick Majeſties of *Spain* cannot ſecure themſelves from Excommunication, without Money; nor their great Vice-Roys in *America*; for a Rebellion was Raiſed in *Mexico*, by the Arch-Biſhop there Excommunicating the Governors; the People by Superſtitious Epiſcopal Education, made more afraid of the Counterfeit Power of the Keys, than of the true Power of the Sword, and will ſide in Rebellion with the Biſhop, againſt the Secular Governor: men may talk therefore and believe what they pleaſe, that the Supremacy of the Temporal Sword is Conſiſtent with the Spiritual of Excommunication; but when it comes to Trial amongſt a Superſtitious People, they will be very much deceived, and perhaps Ruin'd. *Bzovius de Pont. Roman.* 611, 612. to maintain the Power, That the Popes may depoſe Kings, Recites a Catalogue of above Thirty Kings and Princes depoſed by them; all which, pretended Power of Excommunication; and if Biſhops are granted the ſame Power of Excommunication which Popes have, what hinders, but that *Britiſh* Popes and *Britiſh* Biſhops are thereby granted, when they dare, and have opportunity to Excommunicate and Depoſe Kings, as well as the *Romiſh* Popes and Biſhops, who are as quiet as the *Britiſh*, till they have opportunity, and dare ſhew their Teeth?

Pagan Prieſts claim Supremacy in Judgment above Kings.

This was commonly practiſed by the *Pagan* Prieſts, whom the Pope and Biſhops follow, to claim Supremacy in Judgment *Jure Divino* over their Kings; to which purpoſe *Tacitus* ſpeaks, *lib.* 4. *cap.* 2. That the Prieſts amongſt the *Germans* took on them the Power of Judicature, not by Commiſſion from the Prince, but by Command pretended from God, whom they account to be then in preſence, and to be aſſiſting in their Fights; which Power claimed by thoſe ancient *Pagan German* Prieſts, is no other than the Juriſdiction at this day claimed by the later *German* Arch-Biſhops and Biſhops over their Emperors. The like Power long before them was claimed by the old *Ægyptian* Prieſts over their Kings, whom they thereby divers times Sentenced, and put to Death.

How vain the hopes are of obliging Biſhops, either by their Duty of Allegiance to their Native King, or by Benefits or Oaths, it appears by the Examples following.

When *William* the Conqueror came in, he took this Kingdom from the Gift of the Pope, and promiſed in conſideration thereof, to hold it Feudatory of him, and thereupon coming hither with a *Bull* and an *Hayne* of St. *Peter*, and other *Romiſh* Trinkets, the Biſhops, who were then more Potent than the Temporal Barons, forſook *Edgar Atheling* their Native Prince, and the unqueſtionable Lawful Succeſſor, and betrai'd the Land to a Foreigner, though he after ſerved them in their kind, and left not a man of them to ſit in their Sees. *Henry* the Firſt, after the Death of his Queen *Matilda*, Married *Adeliza* the Daughter of *Godfry* Duke of *Lorrain*; when ſhe was to be Crowned, *Ralph* Arch-Biſhop of *Canterbury* who was appointed to Crown her, firſt came to King *Henry* ſitting Crowned in his Chair of State, asking him, *Who had ſet the Crown on his head?* The King Anſwer'd, *He had now forgotten, 'twas ſo long ſince. Well*, ſaid the Arch-Biſhop, *whoſoever did it, he did me wrong to whom it belonged; and as long as you had it thus, I will do no Office at this Coronation. Then*, ſaid the King, *do what you think good.* Whereupon the Arch-Biſhop took off the Crown from the Kings Head, and after, at the People's intreaty, ſet it on again; and ſo proceeded to Crown the Queen. It was a ſufficient favour that the King appointed him to Crown his Queen, and whoſoever Crowned himſelf, it was fit the King ſhould have his own choice, if done by a Biſhop, who ſhould do it: But the Arch-Biſhop will have the Power of a Pope or none; to put on and take off the Crown from a King at his p'eaſure; ſo that unleſs well paid, if he pleaſe, the King ſhall not be Crown'd. And all this Imperious Pride proceeds from his Imaginary Power of Excommunication, and the Profuſe Bounty of Kings towards Biſhops; which doth not oblige, but diſoblige, and cauſe them to deſpiſe their Benefactors, who have Raiſed them to Revenues equal, or Superior to their own: Of which a notable Example appears in *Hubert*, another Arch-Biſhop of *Canterbury*, *Anno Domini* 1021. The Feaſt of the Nativity approaching, King *John* and his Queen appointed to keep that Feſtival with great Magnificence at *Guilford*; *Hubert* Arch-Biſhop of *Canterbury* being in diſfavour of the King, to ſhew how little he regarded it, and to put an Affront on him, Publiſhed he would keep a *Chriſtmas* of as great Magnificence as the King; and accordingly,

Biſhops not to be obliged by Benefits or Oaths.

cordingly performed it in his own Palace, with that Splendor and Multitude of Attendants, Richneſs of Banquets, Pageantry, Coſtly Attires and Gifts at *Canterbury*, as the King could not exceed him at *Guilford*. *Matth. Par. in Antiq. Eccl Angl. in vita Huberti.* Which very much Incenſed the King to ſee himſelf purpoſely outbraved by a Prieſt. *Anno* 1473. *Edward* the Fourth Seiſed on the Mitre of *George Nevil* Arch-Biſhop of *York*, which was ſo Rich with Gold and Pretious Stones, that the King of the ſame made himſelf a Crown; and likewiſe he Seiſed on Twenty Thouſand Pounds-worth more of his Money and Goods: A vaſt Sum in thoſe Days, *Ant. Brit. Anno* 1421. The King wanting Money for the *French* Wars, pawned the Crown to the Biſhop of *Wincheſter* for Twenty Thouſand Pounds, *Ant. Brit.* So we ſee the Biſhops Head is as Richly Crowned as the Kings; and when a Biſhop grows ſo Rich a Broker beſides, as to take Crowns to pawn, it may be then ſaid in no Diſloyal ſence, *The Mitre is above the Crown*; for the Borrower is a Servant to the Lender. Which Exceſs of Riches, Inſatiable Covetouſneſs, High Titles, Precedency of the Temporal Barons, and (till the ſame was alter'd by Act of Parliament) Precedency of the Arch-Biſhop of *Canterbury*, of the Kings Brothers themſelves, Elevates Prelacy to ſo great a height of intolerable Pride, and makes them ſo much over-value their own Merits, as 'tis impoſſible to oblige them by Benefits. *Henry* the Second Raiſed *Becket* from nothing, to be Chancellor of *England*, and after to be Arch-Biſhop of *Canterbury*, and to have the Education of his Son; yet as ſoon as he ſaw himſelf inveſted with the Power of Excommunication, he moved all the other Biſhops, being under the Oath of Canonical Obedience, to him; and Threatned the King, that His Sword ſtrook only with Temporal Death; but that of Biſhops ſtrook the Soul with Eternal Death to Hell. The difference between the King and the Biſhops was, the King would have it Ordained, That the Clergy-men who were Malefactors, ſhould be Tri'd before the Secular Magiſtrate, as Lay-men were; this *Becket* Proudly oppoſed, and ſaid it was againſt the Privileges of the Church, and therefore againſt the Honor of God; and very high and hot the Contentions were about it, till at laſt *Becket* condeſcended to aſſent to the Ordinance *Salvo Jure Suo*; the King liked not the Clauſe, as being deluſive of the Ordinance; at laſt with much ado the Arch-Biſhop yields to this alſo, and ſet his hand to the Ordinance, and takes his Oath to obſerve it: But going homewards, his Croſs bearer and ſome other about him, blamed him for what he had done; whereupon the next day, when they met again, he openly Repented his former Deed, Retracts his Subſcription, and openly

Biſhops perfidious to the *Engliſh* Kings.

openly ſent to the Pope for an Abſolution of his Oath. Which the Pope not only granted, but incouraged him to perſiſt in the Courſe he had begun. The King ſeeing his Perjury, and that there was no prevailing by fair means, Seiſes on his Temporalities, and withal Threatens a Proceeding againſt his Perſon. *Becket* thereupon flies the Realm, and appeals to the Pope, and procures an Excommunication from the Pope, of ſuch Biſhops as kept not their Oath of Canonical Obedience to him, who was their Arch-Biſhop. The King of *France* Intercedes for *Becket*; and the Pope Threatned Excommunication againſt the King himſelf, if he Reſtored him not. The King out of a Superſtitious Fear of his Excommunication (as appears by his Receiving afterward the Servile Penance impoſed on him for *Becket's* death) Reſtores *Becket* again to his See of *Canterbury*; whither again arrived, he continued, notwithſtanding the favour of the Kings Reſtauration, as bad as before; in Proſecuting his Excommunications he had got at *Rome* againſt ſuch Biſhops as ſided with the King; of which when the Excommunicated Biſhops complained to the King, and moved thereby his Paſſion, He cried out, *Shall I never be quiet for this Prieſt? if I had any about me that lov'd me, they would find ſome way or other to Rid me of this trouble.* Whereupon Four Knights ſtanding by, took their Journey to find the Arch-Biſhop; whom they found at Church on the ſteps; where they ſtrook him on the Head with their Swords, and killed him; which though, in the manner of doing, it was no way Juſtifiable, being without lawful Hearing and Trial; Yet 'tis very manifeſt, that the Arch-Biſhop by the Common Law it ſelf, without the trouble of an Attainder by Parliament, might have been proceeded againſt Legally by Indictment of High-Treaſon: and he was manifeſtly Guilty; for it was, by the Common Law, High-Treaſon to appeal to a Foreign Prince. And likewiſe, for any Subject to bring an Excommunication from *Rome* againſt another Subject, without the Kings Aſſent, was Treaſon: for this was the ready way to give the Pope Power to Raiſe Rebellions againſt the King when he pleaſed. The Biſhops in the time of King *John* Conſpired with the Pope and the *French*, and the Temporal Barons, and the Pope laid an Interdiction or Excommunication on the Kingdom for Six Years, Three Months, and Fourteen Days; during which, the Church Doors were ſhut up, and there was neither Exerciſe of Religion, Maſs, Marriage, Baptiſm or Burial, allowed in the Church or Church-Yard, 'till the King would Surrender his Crown, and take the Kingdom from the Pope, and hold it Feudatory from him; which the King was, by the Treachery of his Biſhops deſerting him, compell'd to do; and accordingly;

Biſhops Traitors to King *John*.

cordingly he took off the Crown from his Head, and laid it at the Feet of *Pandulphus* the Popes Legate, the Pope to diſpoſe of it how he pleaſed; which he kept Three or Four Days from him, and wou'd not Reſtore again, but on condition agreed, That he and his Succeſſors ſhould hold it of the Pope, and pay him for it the Yearly Tribute of a Thouſand Marks, which was a great Sum in thoſe days, beſides all the other Tributes and Exactions which the Pope then had from the Subjects: but this the King was fain to do, before the Excommunication would be taken off from him and his Kingdom; which being done, and he perceiving himſelf clear from the Pope, Reſolved to Raiſe an Army and be Revenged on the *French* King, whoſe Penſions had ſet all this on work againſt him; and accordingly had Levied a very great Army, having his Fleet all ready at *Portſmouth* to have Shipt them. The Arch-Biſhop of *Canterbury* thereupon told him, He broke his Oath to the Pope at his Abſolution, if he Warr'd againſt the *French* King; which in truth the Biſhops had themſelves by their Treaſon compell'd Him to. To whom the King Replied in a great Paſſion, That he would not defer the Buſineſs for his pleaſure, ſeeing Lay-Judgment belonged not to him. The Arch-Biſhop Threatned his Native Sovereign he would Excommunicate him, unleſs he deſiſted; and this was in behalf of a Foreign Prince his Enemy: So far could *French* Penſions prevail with Prelats; whereby the King to his great loſs was enforced to Diſſolve and Disband again his Army, in the nick of Time when it was ready for Action.

Henry the Third, the Tempeſt of the Barons-Wars beginning to Threaten him, was asked by *Robert Bacon*, a Frier Predicant, What Sea-men feared moſt, that they knew beſt themſelves? The Frier Replied, *My Lord, I will tell you, It is* Petræ & Rupes, *alluding to* Petrus de Rupibus, The name of the then Biſhop of *Winchester*, and under him meaning the whole Body of the Biſhops.

Edward the Firſt, that wiſe and valiant Prince, diſdaining to be Prieſt-Ridden, as his two Predeceſſors had been, to ſo great danger of their Perſons and Kingdoms; and taught by their Experience, that it was in vain to think of obliging by Benefits or Oath the Power of thoſe who being a Body United, and as it were an Army more firmly Banded under their Arch-Biſhop, than 'twas poſſible to make the Lay-Nobility to be under their King, he began firſt to Lop off from their Eccleſiaſtical Auxiliaries, ſuch Branches of Royal Power as he could do himſelf without a Parliament; and *Anno Reg. 6.* Deprived many famous Monaſteries of *England* of their Privileges, and took from the Abbot and Covent of *Weſtminſter* the Return of Writs, granted them by

by the Charter of *Henry* the third. And after he got to be Inacted by Parliament the Statute of *Mortmaine* againſt the ſo enormous Increaſe of their Temporal Poſſeſſions, which was ſo detrimental to the Military Service of the Kingdom: and in the Statute of *Weſtminſter* 2. defalked the Juriſdiction of Biſhops and Eccleſiaſtical Judges: He left not here, but growing more upon them, he Required the Moiety of all their Goods, as well Spiritual as Temporal, for one year (and I think their money and moveables could grow no more the next year which he took in one year) And at the firſt one Sr. *John* Knight, ſtands up amongſt them in their aſſembly, and ſaid, *Reverend Fathers, if any here will Contradict the King's Demand in this Buſineſs, let him ſtand out in the midſt of this Aſſembly, that his perſon may be known and ſeen as one Guilty of the Breach of the King's Peace.* At which ſpeech they all ſate mute, and though it put them into Extreme grief and perplexity, they yet were fain to yield to his demand. *Dan. Hiſt.* Which if he had been poſſeſſed with a daſtardly fear of Excommunication, he had no more dared to do, than his Predeceſſors. Yet ſome ſay, to be able to deal with his own Biſhops, he was fain to ſend the Pope a Furniſh of gold for his Chamber to have his Connivence.

Biſhops Traitors to *E.* 2.

Edward the ſecond *Anno Regni* 17 after the Overthrow he Received by the Treachery of his own in *Scotland*, Cauſed the Biſhop of *Hereford* to be Arreſted and Accuſed of High treaſon, for aiding the Kings Enemies in their Late Rebellion: but he Refuſed to Anſwer (being a Conſecrated Biſhop) without leave of the Arch-Biſhop of *Canterbury*, whoſe Suffragan he was, and who, he ſaid, was his direct Judge next the Pope, and without Conſent of his fellow-Biſhops, who then all aroſe and humbly deſired the Kings Clemency in his behalf; but finding him Reſolute, they took away their fellow-Biſhop from the Bar, and delivered him to the Cuſtody of the Arch-Biſhop of *Canterbury* till ſome other time the King ſhould appoint for his anſwer to what he was charged withal. Shortly after he was again taken and Converted as before, which the Clergy underſtanding, the Arch-Biſhop of *Canterbury*, *York*, and *Dublin*, and Ten other Biſhops, all with their Croſſes erected, went to the place of Judgment, and again took him away with them, Charging all men on pain of Excommunication to forbear to lay violent hands on him: with which audacious Act the King was much diſpleaſed, and preſently Commanded inquiry to be made *Ex officio Judicis* Concerning thoſe objections againſt the Biſhop, whereto he Refuſed to appear and anſwer; and he being found Guilty of the ſame, Judgment was paſſed againſt him as Contumaciouſly abſent, and thereupon all his Goods and Poſſeſſions were ſeiſed into

The Biſhops reſcue a Traitor-Biſhop from the Bar of Juſtice.

the Kings hands; this Act Loſt him the Clergy, and added Power to the Diſcontented Party; which by Reaſon of the misfortunes of the Prince, and his having advanced unpopular officers, As *Gaveſton* and *Spencer* were grown in the people, and Concurred to his after Depoſeing from the Throne, and horrible Murder when Depoſed. Hence may be very well obſerved, in what a ſad Condition a Prince is, who muſt Depend on the Protection of Biſhops and their Excommunications; And how ſhamelеſly notwithſtanding they will boaſt, that *no Biſhop, no King.* For here are *France* and *Scotland* Confederated againſt the Kingdom; the King is valiant, but young and unexperienſed; his Biſhops and Barons are Corrupted againſt him by *French* Penſions, and cauſe the Overthrow of his Army; he diſcovers one of the Biſhops guilty of the Treaſon, and had he not been Reſcued by the other Traytor Biſhops his Companions, he might perhaps have diſcovered the whole Plot and all his Complices. The King very Juſtly Sentences him both as Mute, and Contumaciouſly abſent, and ſeiſes on his Eſtate as forfeit. What more Juſt proceeding than this? here is no condemning without Liberty of Anſwer and Hearing; yet this muſt loſe the King all the Arch-Biſhops and Biſhops in *England* and *Ireland*, and all the Clergy of both Kingdomes who received Ordination from them; And they will no longer be his ſubjects, unleſs he will allow them to betray and ſell him to his Enemies, and not Puniſh or queſtion the Treaſon. But all concur to irritate the Temporal Barons, the people and his own Trayterous Queen to depoſe and deſtroy him; And the Biſhop of *Hereford* Preaching before her, took this Text *My Head aketh, my Head aketh*; and thence drawes this wicked Doctrine and Uſe to a wife, that ſhe muſt cut off her Husbands Head who was her Head; and when after the King was depoſed, and his ſon choſen, the Arch-Biſhop of *Canterbury* Preached in *Weſtminſter*-Hall on this Text, *Vox Populi, Vox Dei*, to encourage the people in the Treaſon, which was after perfected by his horrible murder in Priſon. The next Conſideration will be, how this might have been prevented by his Renowned Father, who was of ſuch Wiſdome, Vigilance and Valour, as neither *Gaveſton* nor *Spencer* nor Biſhops Dared to abuſe; if he had ſuſpected they would have practiſed ſuch Treachery againſt the younger yeares of his ſon. Concerning which, it ſeemes he was able and might have eaſily prevented it, had he not Committed two overſights, the one was, That he only Baniſh'd *Gaveſton*, and had not cut off his head if he had deſerved it; for aſſoon as he was dead, *Gaveſton* returned again, and corrupting the young King, was the firſt occaſion his Enemies made Uſe of to caſt the vices

and

and miſgovernments of his Favorites on himſelf. It may be here objected, That perhaps though *Gaveſton* was a wicked vitious perſon, yet he might not be Guilty of any Crime for which he might be lawfully put to death. To which is anſwered, That it poſſibly might be ſo, though it be not likely; And if he were not Guilty of ſuch a Crime, he ought not to have been put to Death: for a Throne cannot be Eſtabliſhed by ſhedding Innocent Blood. But neither he nor his ſon needed to have been Guilty of it; for his ſon needed not have ſent for him Contrary to his Fathers Command; and though he incurr'd that fault, the Lords cut off his Head, who muſt anſwer for it, and freed him from the Guilt and danger of him. The ſecond overſight was of more weight, that was, When he made an Act againſt *Mortmain* for the future, he had not taken away, as *H.* 8. after did, all that was before *Mortmained*. And when he took the Moiety of the Reverend Fathers Money and Goods, he had not taken all; and when he Lopt the Branches of Privileges and Juriſdictions of Biſhops and other Eccleſiaſticks, he had not took both Root and Branch: For it is as lawful to take preſent *Mortmaines*, as 'tis to prohibit Future. And if lawful to take the Moiety, it was lawful to take the Whole: And if lawful to take the Branches, it was as lawful to take the Root of Hierarchy; which if he had done, This clear Benefit he had Received by it, he had left his ſon ſecure from any Spiritual *French* Penſioners, who are the moſt Dangerous ſort of all other; And the Temporal Barons could not have had without them ſo great and ſpecious advantages to have Betrayed him. (2) He had freed him from ſuch Audacious Traytors as would Reſcue their fellowes from the Bar of Juſtice; which Temporal Barons never dared do (3) He had freed all his ſucceſſors who ſhould happen to be ſuperſtitious, from having Rebellions raiſed againſt them, and themſelves Depoſed by Excommunication, by aboliſhing Biſhops and their ordination; which had been an advantage, none of his neighbour Emperours or Kings could hitherto ever obtain; nor if Biſhops had been taken away, Epiſcopal or Eccleſiaſtical Government by halves; though it was ſufficient to abate their Power as to himſelf, it was worſe for his Son, than if he had done nothing at all; for he thereby left Biſhops and a Clergy full of Rancour in their minds for thoſe blowes they had been beaten with by the Father; which though they dare not revenge themſelves on him, yet did they on his Son to his deſtruction: and though there never had been a *Gaveſton* or a *Spencer*, would have found other pretences enough for their Treaſons; which they could not have done, had he cleane aboliſh'd them and not left a See for a Biſhop to ſit in.

Arch-Biſhop threatens to Excommunicate *Edw.* 3.

Edward the Third being with his Army in *France*, and diſappointed of his Supply of Treaſure, upon his laſt Return into *England* had in great diſpleaſure Removed his Chancellor, and Impriſon'd his Treaſurer, with other Officers, moſt of them Clergy men. *John Stratford* Arch-Biſhop of *Canterbury*, on whom the King likewiſe laid the blame of his Wants, writes a proud Letter to the King, and deſired him and his Council without delay to deliver the ſaid Priſoners, otherwiſe he plainly writes, That according to his Paſtoral Charge he muſt proceed to the Execution of the Sentence of Excommunication; concluding, how notwithſtanding it was not his Intention to include the King, Queen, or their Children, ſo far as by Law they might be Excuſed. It was well for the King he was in the head of a brave Army in *France*, for if he had been ſingle as his Father was, they who durſt Menace him amongſt all his Forces in the Field, if he had loſt the Day, as his Father did, were as likely to bring him (for a *French* Penſion) to as miſerable a deſtruction, as they brought his Father; but by Gods Providence he proved afterward Victorious, but firſt Replied by another Letter to the Arch-Biſhop, That Relying on his Council, he was firſt put on the Action of the *French*, and that he had promiſed and aſſured him he ſhould not want Treaſure to perform the work; and that notwithſtanding by the negligence and malice of the ſaid Arch-Biſhop and his Officials, thoſe Proviſions Granted him by his Subjects in Parliament, were in ſo ſlender proportion Levyed, and with ſuch delays ſent over, as he was preſſed of neceſſity to his great Grief and Shame to Condeſcend to the late Truce with the *French*, though extreme Wants charged with mighty Debts, forced him to throw himſelf into the Gulf of the Uſurers in ſuch ſort, as he began to look into the Dealing of his Officers; ſome of which, upon apparent notice of their ill Adminiſtration of Juſtice, their Corruptions and Oppreſſions of his Subjects, he removed from their Places: and others of mean Degree he Committed to Priſon, and there detained them, to the end he might find out by their Examinations, the truth of their Proceedings. Then he charges the Arch-Biſhop with his own Corruption, and declares how himſelf being under Age, had through his ill Council made ſo many Prodigal Donatives, prohibited Alienations and exceſſive Grants and Gifts, that thereby his Treaſury was utterly Exhauſted, and his Revenues diminiſhed; and how the Arch-Biſhop corrupted with Bribes, Remitted without reaſonable cauſe great Sums which were due unto him; applying to his own Uſe, or Perſons ill deſerving, many Commodities and Revenues which ſhould have been preſerved for his neceſſary Proviſions; and concluded, Unleſs he deſiſted

from

from his Rebellious obstinacy, he intended in due time and place more openly to proceed against him: and the King, before the Arch-Bishop Submitted, caused a Letter to be sent to the Pope from the Parliament, not to make any more Collations of Benefices in *England*, and prohibited them on pain of Death on any that should present or admit them: which Resolute slighting of Excommunication, both from Arch-Bishop and Pope, though in the very time of War with *France*, made the Pride of the Arch-Bishop stoop, and with much ado got himself Reconciled to the Kings favour; for which the King was bound to thank God and not the Pope or Bishop, who gave him that Victory and Success against the *French*, as neither Pope or Arch-Bishop dared to Excommunicate him.

Against *Richard* the Second, one of the Articles brought against him; to have him deposed, was, That whereas the Realm is immediately holden of God, after he had obtained divers Acts for his own particular Ends, he obtained Bulls & heavy Censures from *Rome* to observe and perform them, contrary to the Honour and ancient Privilege of this Kingdom; whereby appears, That even in a time of Popery the Assistance of the Pope and Bishops which were included in it, was so far from being a Protection to the King, that it was Destructive to him; much more is the Assistance of Bishops likely to be Destructive, rather than a Safety in a time of Protestancy. The Bishop likewise Concurr'd with the rest, and accused him, That he had taken Money, Jewels and Plate from them at his going into *Ireland*; so far were they from seeking to preserve the Kings Life with those Superfluities of theirs, where they could keep them and their Bishopricks together, that they shewed their Fidelity to their Native King, by endeavouring to destroy him. For such Trifles divers other Articles were laid against him in behalf of the Bishops, by whose doing only the King was utterly undone. *Trust.* 46. And not one of all the Bishops in *England* or *Ireland* spoke so much as one word to preserve their Native Sovereigns Life, but only one, namely, *Thomas Mercks* Bishop of *Carlisle*.

Bishops accuse *K.* 2. for Trifles, to Depose him.

As to the *Dilemma* a Prince falls under in expecting safety of Government from the Power of Excommunication of Popes or Bishops, either the greater part of his Subjects will be Religious, or Superstitious; if Religious, they will so easily see through the Superstition of Consecration and Excommunication, as it will rather Irritate and Provoke them, as it did in the late unhappy Civil Wars; but if Superstitious, will the Pope or Bishop make Use of the great Interest and Strength they gain thereby in the People, to advance their pretended Spiritual Sword above the Temporal, and their own Supremacy above Temporal

Dilemma of danger from Excommunication.

Temporal Kings and Princes, which if Reſiſted by the Princes of ſuch Subjects, hazards their being Depoſed, and loſing Kingdoms and Lives together, as appears by the Examples before Recited. In the ſame danger is a Prince who Truſts a Temporal Officer, whether Treaſurer or other, with too much Power of Money; as *Theocritus*, *Anno* 518. *Anantius.* cauſed *Amantius* an Eunuch to give *Juſtin*, the General of the Army, a great Sum of Money to give the Soldiers, to chooſe *Theocritus* Emperour; but *Juſtin* diſtributed it for himſelf, and ſo obtained himſelf the Empire. The *Weſtern* Emperours firſt raiſed the Popes to that height, as to Excommunicate the *Eaſtern* Emperours; the ſucceeding Popes to return their Advancers due thanks, Excommunicated, after, the *Weſtern* Emperour. The *French* Kings aſſiſted, and after raiſed the Popes to ſuch height, that they Excommunicated, Depoſed and Poiſoned the *Weſtern* Emperour; after, by the ſame Power the *French* King gave them, in thanks they Excommunicated and Aſſaſſinated the *French* Kings. The Princes of *Sicily* and *Naples* had been mighty defendors of the Papacy, but when they had made it mightier than themſelves, the Succeeding Popes took from them their Sovereignty, to themſelves.

As to the Impoſſibility of Safety of Princes amongſt Subjects, Educated in fear of Excommunication.

Subjects Educated in fear of Excommunication, dangerous to Princes.

It is to be Noted as well from the Teſtimony of approved Authors, as from the Scripture it ſelf, that amongſt the Primitive Chriſtians, thoſe who are now called Biſhops, but in the Original word ſignifie only Overſeers, were Parochial Biſhops or Overſeers, and not Provincial, and that they were the ſame with Presbyters, and differ'd not in Authority from them, and that they were choſen and called by their ſeveral Congregations, or, what is all one, Cities or Pariſhes, and not by the Emperor or Prince, till *Conſtantine* to corrupt them (under pretence of prevention of Schiſms and Hereſies, which he thereby encreaſed) took away the free Election of the People of their Paſtors, which they had always before enjoyed, to make them Penſioners, and the Chriſtians Mercenaries, to Fight all their Quarrels Right or Wrong.

A Biſhop and a Presbyter all one.

That Presbyters were only Parochial and not Provincial, is not doubted; That Biſhops were all one with Presbyters, and therefore were Parochial and not Provincial, is proved, firſt, by the Authority of *Jerome*, who ſaith, *ad Tit. Cap.* 1. *That a Biſhop and Presbyter was all one.* And that it may not depend ſolely on humane Authority, this is proved by the words

words of *Paul* to the *Philippians*, *Chap.* 1. 1. Paul *and* Timotheus *the Servants of Jeſus Chriſt, to all the Saints in Chriſt Jeſus, which are at* Philippi, *with the Biſhops and Deacons: Grace be unto you, and Peace.* Now *Philippi* is one of the Cities of *Macedonia*, and in one City there could not be many Biſhops, unleſs they were Parochial, and not Dioceſan or Provincial, and the ſame the Presbyters were, *Acts* 20. 17. It is ſaid, Paul *from* Miletum *ſent to* Epheſus, *and called the Elders of the Church*, and *verſe* 27. he ſaith to them, *For I have not ſhunned to declare unto you the whole Counſel of God. Take heed therefore unto your ſelves, and to all the Flock, over the which the Holy-Ghoſt hath made you Biſhops, to feed the Church of God, which he hath purchaſed with his own Blood. For I know this, that after my Departing ſhall grievous Wolves enter in among you, not ſparing the Flock.* Here appears that the ſame Perſons whom *Paul* firſt (*verſe* 17.) calls, Elders, Presbyters of *Epheſus*, he after in the ſame Chapter (*verſe* 27.) calls Biſhops or Overſeers. And 1 *Pet.* 5. 1. *The Elders which are among you I Exhort, who am alſo an Elder, and a Witneſs of the ſufferings of Chriſt, and alſo a partaker of the Glory which ſhall be revealed. Feed the Flock of God, taking the overſight thereof; not by conſtraint, but willingly: not for filthy Lucre, but of a ready mind: Neither as being Lords over God's Heritage, but being Examples to the Flock.* From which Scripture appears,

(1.) That the great Apoſtle *Peter* himſelf, from whom the Biſhop of *Rome* pretends his Succeſſion to Imperial Supremacy, calls himſelf no more than an Elder or Presbyter, and that he had other Co-presbyters with him. Biſhops ought not to be Lords.

(2.) That theſe Presbyters who are now call'd Biſhops, ought not to be Lord Biſhops; for the words are, *they are not to be Lords of Gods Heritage.* In one Chapter of *Mahomets*, it is forbidden to all Perſons of what Quality ſoever, to call themſelves in any ſort Lords, except the great *Caliph* or great Biſhop the Succeſſor of *Mahomet*, who at the firſt was the only Lordly Monarch, and Lord of all, giving unto Kings and Princes their Principalities and Kingdoms, during pleaſure, untill that the *Ottoman* Princes, the *Cundes*, and the Kings of the higher part of *Aſia* and *Africk*, by little and little Exempted themſelves out of their Power, by Reaſon of the Diviſion between them and the *Anti-Caliphs*. *Bod.* 203.

(3.) That they ought not to have Temporal Baronies, for they are not to take charge of Souls for *filthy Lucre*, but of *ready mind.*

(4.) That they ought neither to Counterfeit a *Nolo Epiſcopare* when they take Baronies, nor to Refuſe the Charge of Souls when they have none; for the words are, *not by conſtraint, but willingly.*

And

Cranmer, That Biſhops were Presbyters, and choſen by the Pariſh.

And it is likewiſe acknowledged by that Pious Proteſtant Martyr, Arch-Biſhop *Cranmer*, though he were a Provincial, and choſen by the King himſelf, yet, That amongſt the Primitive Chriſtians, the Biſhops were choſen by the Congregations, and were all one with Presbyters. From all which Premiſes theſe Sequels follow:

(1.) That if a Biſhop were choſen by his City or Pariſh, he came not in *Jure Divino*, but by human Election, and was only a Servant, and not a Lord, of the City or Pariſh.

(2.) That he had no Sign of Miſſion from God, unleſs he had a Gift of Miracles.

(3.) That he could not Excommunicate any of his own Pariſh, for the Inferior cannot Excommunicate the Superior, and Electors are Superiors to Perſons Elected, and the Hoſt is Superior in his own Houſe to the Gueſt, and he who gives the Penſion, to the Penſioner.

Biſhops cannot Excommunicate.

(4.) That a Biſhop Elected by the People, cannot on Excommunication deliver any Perſon to Satan, without the Gift of Miracles as a Sign of Miſſion, for *Nemo poteſt plus Juris ad alium Transferre quàm ipſe habet*, the Electors themſelves had no Power to deliver to Satan, therefore Biſhops Elected by them cannot without Miracle.

(5.) Though he hath the Power of Miracles to deliver the Body to Satan, he cannot deliver the Soul, nor can he have any Sign of Miſſion to do the ſame; for that is a Prerogative inſeparable from the Perſon of God to ſend the Soul to Heaven or Hell, and *Inter inſignia imperii*, which cannot be Delegated.

(6.) That as a Biſhop cannot Excommunicate a Citizen or Pariſhioner who Elected him, ſo, he can much leſs Excommunicate a King, or Interdict a Kingdom, who if he had any Juriſdiction at all, can be no greater than within the Petty Bounds of his City or Pariſh, and cannot extend to Empires or Kingdoms.

(7.) That he can give no Conſecration or Ordination to a Biſhop or Prieſt, for where the Office ought to go by Election of the People, it cannot go by Ordination of the Biſhop; and where it goes by human Election, it cannot go by Conſecration, and after the Gift of Miracles ceaſed, both the Election by Miſſioners from God, and Conſecration and Ordination likewiſe ceaſed.

Subjects free from Superſtition, the ſafety of the Prince.

(8.) That 'tis a great Safety to Princes to have their Subjects well Educated and Inſtructed againſt the Superſtition and Popery of Conſecration, Ordination and Excommunication of Biſhops and Prieſts, for by this only means we ſee the *Grand Seignior*, though he Tolerates a multitude of Sects and Religions in his Empire, yet he is endanger'd by

by none, becauſe all *Mahumetan* Prieſts are choſen by the Pariſh, and though they are in great Reverence of the People, yet they have neither Conſecration nor Ordination, but continue as perfect Lay-men as our Ordinary Clerks of our Pariſhes; and much leſs have they Power of Excommunication or Abſolution, but Preach, That thoſe that Fight Valiantly and Die in the Field for their Prince and Prophet, go to Paradiſe; and who flie Cowardly, go to Hell; whereby none of his People are Educated in the Superſtition of Pontifical Excommunication, and therefore fear it not, but deride it. And for the *Greek* Patriarchs and Biſhops, they dare not Excommunicate an Emperor of ſuch a People who Contemn their Excommunication, and would Revenge it on themſelves, if they ſhould preſume to make a vain noiſe with it. Chriſt commands Wiſdom to be learnt of the Serpent, and the experience of all Ages witneſſeth to whoſoever will but conſult Hiſtories, That there was never any Prince *Gentile* or *Jew*, *Mahumetan* or *Chriſtian*, who admitted near his Throne Epiſcopal or Pontifical Conſecration, Ordination or Excommunication, could that remain, He or his Poſterity ſecure, or not Ruin'd or Plagued by thoſe Devils Transformed, which he Superſtitiouſly or Impudently had Raiſed againſt himſelf, or them; as may ſufficiently appear by the Examples before Recited.

Laſtly, (9.) If Parochial Biſhops and Presbyters were Elected by the Congregations or ſeveral Pariſhes, theſe were Independents in the Primitive Chriſtians time, and no Prelacy was amongſt them; for though the Cities or Pariſhes in greatneſs might exceed one another in greatneſs and in Precedence, yet the Presbyters Elected were as Independent one of another, as Members of Parliament Elected from great and ſmall Shires. Presbyters independent.

As to the Impoſſibility of obliging Biſhops by Oath.

It is impoſſible to oblige thoſe by Oaths who claim to be Judges of Oaths and Perjury, as all Biſhops do, and their Spiritual Courts; for how many and eaſie pretences will they find to Evade and Nullifie them? ſometimes a *Parte Ante*, Force or Circumvention; ſometimes matter *Ex poſt Facto*, that though at firſt Law, yet by new matters ſince ariſing, the ſame is became unlawful to be kept. So, grant a Biſhop the Juriſdiction of Perjury, he will never Judg himſelf guilty of it, nor any Subject who breaks his Oath of Allegiance to the King, in obedience to the Biſhop; and the rather, becauſe he is not Biſhops not to be obliged by Oath.

bound to ſhew any Cauſe or Reaſon of his Judgment; neither as *Coke* will have it to be queſtion'd, in the Kings Courts, of what he hath the Juriſdiction, 25. *H.* 8. *Cap.* 19. The Clergy Promiſe the King in *verbo ſacerdotii* that they will never hereafter Praeſume to attempt alledge claime or put in ure, enact, promulge or execute any Canons Conſtitutions Ordinance Provinciall, or other, or by whatſoever other name they ſhall be called in the Convocation, unleſs the Kings moſt Royal aſſent may be to them had, and that his Majeſty do give his moſt Royal aſſent; ſo it appeares they uſed to make them before, preſuming on their Power of Excommunication; yet when Queen Mary came in, they were as high again as ever, notwithſtanding their Promiſes.

Holy water to waſh off Oaths.

There was a water which Ran in the way *Appia*, dedicated to *Mercury*, wherein the old Pagan *Romans* did believe, if they dipped a Laurell Branch, therewith calling on *Mercury*, That they were diſcharged thereby from any breach of Oath and Perjury they had Committed, *Alex ab Alexandr. Genial. Dier.* The Popes have ſtore of this Holy Water, and no doubt can ſpare ſome to the Biſhops, as well as Holy Oyle. *Guiccuardin. Com. de Pol.* Relates a then in uſe Proverb, *Proprium eſſe Eccleſiæ odiſſe et timere Cæſares*; Eccleſiaſtical Lawes and Excommunications therefore, made by ſuch Enemies, are not likely to be friends to Kings or ſubjects. Biſhops are Eccleſiaſtical Perſons Aiming at a ſupremacy in Judgement of Hereſy, in Judgement of Oaths, in Excommunication, all inconſiſtent with Temporal Supremacy, as is their Intereſt, which hath alwayes made them perfidious to Temporal Powers. The French King beſieged Pope *Alexander* the Sixth in his Caſtle of St *Angelo*, from whence after a time he came out ſwearing to ſuch capitulations as he could obtain, and the French King kiſſing his foot: Amongſt other Articles he agreed the French King ſhould have his Son *Cæſar* Hoſtage for the Performance, but not long after, *Cæſar* making an Eſcape, his Father the Pope, contrary to his Oath contracted a League Contrary to the French, to their great Prejudice, and it was the Cuſtom of that Pope to uſe moſt Oaths when he intended moſt to deceive.

Popes perjured.

Pope *Julius* the ſecond had obliged himſelf by Oath, to have a General Council within two years after his Election to the Popedome, but this being not performed, *Maximillian* the Emperour and *Lewes* the French King Conven'd a Synod at *Piſa*, whither ſome Cardinals under protection of the French King cauſed the Pope to be ſummon'd to make his appearance, but the Pope inſtead thereof Excommunicated them and the French King, and call'd an Anti-Synod at *Rome*,

Rome, to whom he Excuſes his Oath, and Dies, but how he Excuſed it after he was Dead the Hiſtorian doth not mention. *Anno.* 1414. In the Council of *Conſtance* convened by *Sigismond* the Emperour and Pope *John* the Third, Conſiſting of about a Thouſand Biſhops and Doctors, and Continued four years, yet amongſt ſo many Biſhops *Vix una Fides*; for though theſe declared that the Council was above the Pope, yet they Reſolved to be as perfidious to Proteſtants as he, and accordingly there ordained, That faith ought not to be kept with Hereticks: Here they order'd the bones of *John Wickliff* that famous Primitive Proteſtant of *England*, to be digged out of his Sepulchre and burnt at this Council: likewiſe was *John Hus* and *Jerome* of *Prague* contrary to the ſafe conduct and faith given them by the Emperour and Biſhops, Perfidiouſly and Cruelly made Martyrs; and burnt for the Proteſtant Religion. Here you ſee were a thouſand Biſhops, yet none kept the Promiſe of ſafe conduct. *Burchard* Arch-Biſhop of *Magdeburg* taking ſome offence at his Citizens beſieged them with Armed Power, but they Redemed their liberty with a ſumme of money, he thereupon Swearing he would moleſt them no more: yet ſhortly after, he beſieged them again; but this Perjury was juſtly met with, for in a Sally they took him Priſoner, at which time by his humble Demeanor, and counterfeit Oaths never to moleſt them more, They Releaſed him; but when he was at Liberty, getting a Deſpenſation for his Oath from Pope *John* the 23d, he began to moleſt them again, Murthering them whom he had ſworn to Maintain. But it was Gods will he ſhould be once again caught and caſt into Priſon, and Puniſhed for his wickedneſs, *Magdeb. Cent.* And did not the Arch-Biſhop of *Canterbury*, *Becket*, as well as *Burchard* Arch-Biſhop of *Magdeburg* as is before mention'd, commit as great a Perjury againſt his native King, *Henry* the ſecond, after all the Labour and pains taken with him, both by fair and foul meanes to bring him to Agreement, aſſoon as he Recovered home to his Houſe, by Retracting his Oath and getting an abſolution from the Pope for the ſame?

Biſhops perjured.

By the Pretended Power of Conſecration, Ordination, and Excommunication Popes and Biſhops Pretend a Divine Miſſion to Anoint and Crown Kings, and then again to Excommunicate and Depoſe them all, to Null all Oaths of allegiance unleſs they will buy their Crownes of them and pay Tribute. There is in our own *Engliſh* Hiſtory a Manifeſt Example of the ſame, in that noble King *Henry* the ſecond, who Complaines to his Parliament againſt the Biſhops and the whole Clergy, That in their Election of King *Stephen* his Predeceſſor, who was a Collateral Heir, they had impoſed on him their own Conditions,

Biſhops compell *H.* 2. to accept the Kingdom on their Terms, or not to have it.

ditions, with all advantages to themſelves, whereby they Deprived his Mother *Maud* the Empreſs, and him who was her iſſue and the right Lineal Heir, of the Succeſſion to the Crown. And how they dealt with the People, as well as with the King, appears by the Complaint of the Lay-Nobility to the King at the ſame time, That the Privileges of the Clergy hindred all Execution of Juſtice, that the ſame could have no Paſſage through the Kingdom; and having Exempted themſelves from the Juriſdiction of the Magiſtrate, there had been ſince the beginning of his Reign, above an Hundred Man-ſlaughters Committed within the Realm of *England* by Prieſts, and men within Holy Orders, *Dan. Hiſt.* 83. Such were the Fruits of Biſhops and perſons within Holy Orders, and the three fine Knacks of Conſecration, Ordination and Excommunication, wherewith they both Allured and Terrified the Superſtitious People. And ſuch were the fruits of their pretended Divine Miſſion with the Olive Branch of Peace, for the Unction and Crowning of Kings, who confected their Oyntment of the Ingredients mention'd in Pſal. 55, 21. *The words of his mouth were ſmoother than butter, but War was in his heart; his words were ſofter than oyle, yet were they drawn ſwords.*

(1) Of

(1.) *Of Gods Preſervation of* John Keyſar, *notwithſtanding his Excommunication, and Delivery to Satan by an Arch-Biſhop of* Canterbury.

(2.) *Of Delivery to Satan by Biſhops, and their Prohibition to caſt him out again by Faſting and Prayer, without the Biſhops Licence.*

(3.) *All Excommunication and delivery to Satan by Biſhops, without a Sign of Miſſion from God, if Maleſice follow, ought to be Puniſhed as Witchcraft, if not as a Cheat.*

(4.) *To grant a Biſhop Power of Excommunication, is to grant him Power to ſet up Idolatry; to make all Sins equal, to Pardon all Sins for Money.*

Coke part 3. 42. *Ex Mich.* 5. E. 4. *Rot.* 143. *Coram Rege.*

John Keyſar was Excommunicated by the greater Excommunication, before *Thomas* Arch-Biſhop of *Canterbury*, and Legate of the Apoſtolick See, at the Suit of another, for a reaſonable part of Goods, and ſo Remained Eight Months; and the ſaid *Keyſar* openly affirmed, That the ſaid Sentence was not to be feared, neither did he fear it; and albeit the Arch-Biſhop or his Commiſſary hath Excommunicated me, yet, before God I am not Excommunicated; And he ſaid he ſpoke nothing but the Truth. And ſo it appeared, for that the laſt Harveſt ſtanding ſo Excommunicate, he had as great plenty of Wheat and other Grain as any of his Neighbours, ſaying to them in ſcorn, That a man Excommunicate ſhould not have ſuch Plenty of Wheat; the Arch Biſhop (denying theſe words to be within the Statute of *H.* 4. concerning *Lollards*, who were the Primitive Proteſtants and Protomartyrs of *England*) did by his Warrant in writing, comprehending the ſaid Cauſe by Pretext of the ſaid Statute, Commit the Body of the ſaid *Keyſar* to the Gaol at *Maidſtone*, for that, ſaith he, in reſpect of publiſhing the ſaid words, *Dictum* Johannem *non immerito habemus de Hæreſi ſuſpectum*; by reaſon whereof, the ſaid *John Keyſar* was Impriſon'd in *Maidſtone* Gaol, and in Priſon detained under Cuſtody of the Keeper there, untill by his Councel he moved Sir *John Markham*, then Chief-Juſtice

Keyſar deliver'd to Satan, protected by God.

Juſtice of *England*, and other the Judges of the *Kings-Bench*, to have an *Habeas Corpus*, and thereupon (as it ought) a *Habeas Corpus* was granted, upon which Writ the Gaoler Returned the Cauſe and Special Matter, and withal, according to the Writ, had his Body there. The Court upon mature Conſideration (and on Conference with Divines) Reſolved, That upon the ſaid words *Keyſar* was not to be Suſpect of Hereſie within the ſaid Statute, as the Arch-Biſhop took it; and therefore the Court firſt Bailed him, and after, he was deliver'd; for that the ſaid Arch-Biſhop had no Power, by virtue of the ſaid Act, to Commit to Priſon. *John Keyſar* hereby proved the Arch-Biſhop to be no *Incantor Meſſium*, but he thereby proved, though he was no Witch, yet he was a Cheat.

Prohibition to caſt out the Devil by Faſting and Prayer.

In the Book of Canons newly Printed, 1673. the Canon 72. contains theſe words: *No Miniſter or Miniſters ſhall, without the Licence and Direction of the Biſhop of the Dioceſs firſt had and obtained under his Hand and Seal, attempt upon any pretence whatſoever, either of Poſſeſſion or Obſeſſion by Faſting and Prayer, to caſt out any Devil or Devils, under pain of Imputation of Impoſture or Cozenage, and Depoſition from the Miniſtery.* The Biſhops in prohibiting to caſt out the Devil without their Licence, imitate ſomething the Popiſh Exorciſts, part of whoſe Exorciſm, is, according to *Mengus Flagell. Damon. p. 36.* The Exorciſt ties a Stole about the Neck of the Party with three knots, ſaying, *Oh ye Abominable and Rebellious Spirits, I Adjure, Conjure and Compell you, whereſoever you have your Reſidence in this man, by the Father, and the Son, and the Holy Ghoſt, that ye immediately underſtand the words of my Conjuration, and the virtue of it, and that ye dare not depart from the Creature of God, and Image of Chriſt, without my Licence.* This is not only Anti-Proteſtant, and the way to bring in all the Popiſh Magick and Exorciſms into the Church; but is Anti-Chriſtian, for Chriſt himſelf affirms, There is no holier or higher way of caſting out the Devil than by Faſting and Prayer, as appears, *Matth.* 17. 14. *And when they were come to the multitude, there came to him a certain man kneeling down to him, and ſaying, Lord have mercy on my Son, for he is Lunatick, and ſore vexed, for oft-times he falleth into the fire, and oft into the water. And I brought him to thy Diſciples, and they could not cure him.* And *verſe* 18. *And Jeſus rebuked the Devil, and he departed out of him: and the Child was cured from that very hour. Then came the Diſciples to Jeſus apart, and ſaid, Why could not we caſt him out? And Jeſus ſaid unto them, Becauſe of your Unbelief: for verily I ſay unto you, if ye have Faith, as a grain of Muſtard-ſeed, ye ſhall ſay unto this Mountain, Remove hence unto yonder place, and it ſhall remove: and nothing ſhall be impoſſible*

ble unto you. Howbeit this kind goeth not out but by Prayer and Faſting. Chriſt again will not ſuffer the Diſciples to prohibit any to caſt out the Devil, as *Mark* 9. 38. *And* John *anſwered him, ſaying, Maſter, we ſaw one caſting out Devils in thy Name, and we forbad him, becauſe he followed not us. But Jeſus ſaid, Forbid him not, for there is no man that ſhall do a Miracle in my Name, that can lightly ſpeak Evil of me. For he that is not againſt us, is on our part.* The Biſhops Canon appears therefore clean contrary to the Example and Precept of Chriſt.

It is before mention'd, how the Bodies of Dead Perſons in their Graves are by ſome believed to be Revived and Tormented by the Devil; and how Locuſts, Flies and Fiſhes have been ſtruck with this Thunderbolt of Excommunication. There is no Good man dare Torment or Deſtroy by the help of any Inviſible Spirit, nor will, nor ought any good Magiſtrate ſuffer them, without a Sign of Miſſion from God, above the Power of his Temporal Sword; for all Magicians and Witches would then Act their Miſchiefs under pretence that they do it by the Spirit of God; and that their Excommunication is the Curſe of God. If therefore any Malefice follow without a Sign of Miſſion, whereby they had a Warrant to Curſe, the Magiſtrate ought to puniſh them for Witchcraft, or all Laws againſt Witchcraft muſt be Repealed, and the Devil let looſe, by his Inſtruments the Witches, to do what miſchief he pleaſes, and no Judg preſume to puniſh a Witch, if he only ſay, What he did was done by the Spirit of God. It is impoſſible to diſtinguiſh inviſible Spirits, or to trie the Spirit, whether God or the Devil, but by viſible Sign; if the hurt be done therefore by any Perſon, by aſſiſtance of a Spirit, unleſs he ſhew a Sign, he ought, by the ſtanding Laws and Acts of Parliament, to be puniſhed for Witchcraft; and if he pretend to have a Miſſion from the Spirit of God, and hath none, he ought to be puniſhed for a Cheat. And under the ſame *Dilemma* fall the Authors and Executors of the before mention'd Canon, prohibiting Miniſters to caſt out the Devil by Faſting, and muſt be guilty either of Witchcraft or a Cheat, if they cannot ſhew a Sign of Miſſion to make ſuch a prohibition, and to give ſuch a Licence as their Canon imports, though they impute the ſame to the Miniſters who Faſt and Pray, when they do not.

Excommuni-

Excommunication makes all Sins equal.

Excommunication for Two Pence.

Excommunication, as it came from *Pagans*, so it sets up again that old *Pagan* Doctrine of the *Stoicks*, *Omnia Peccata esse Equalia*. There was a Poor man who used to go to Labor for Six-pence a Day, he lived in a Parish where the Custom was, The Clerk was to have a Penny every Year of every House-holder, and being very Poor, rather needing to receive Alms, than to pay Rates, he thought he might have been on that Cause excused, whereby this Penny was neglected to be paid for two Years following, which amounted to the Sum of Two Pence, for which he was Sued in the Bishops Court, and Excommunicated; and he would often complain, that he could not recover his Estate till he had given the Court Eighteen-pence. See the Piety of an Excommunicator, he would, if he had had Power, have sold the Poor mans Soul to the Devil for Two Pence, if he could not get some Money to redeem it.

Excommunication Pardons all Sin for Money.

Excommunication is done to no other end, than to drive them to buy Absolution, which enticeth and encourageth all kind of Uncleanness, and other Wickedness.

Excommunication sets up Idolatry.

Idolatry.

Pope *Gregory* the Second, Excommunicated and Deposed the *Greek* Emperor *Leo Isaurus*, because he made a Law against Images, and Nick-named him *Iconomachus*, or the Fighter with Images.

Excommuni-

Excommunication and Power to Judg of Hereſie, returns all to Popery and Prieſt-riding.

Thus Excommunicators follow the Precedent of the old *Pagan* Prieſts of *Mars*, whom they called Πυροφόρους or the Fire-bearers, who having Solemnly performed their Rites and Ceremonies of Curſing, Execration or Excommunication (as *Balak* would have had *Balaam* to have done) uſed, before the Battel joined, to caſt Fire-brands between the two Enemy-Armies, ſtanding in Battel Array one againſt another, and ſo ſtirred them up to fight, but they themſelves yet retired out of the medly and danger.

1. This gives the Popiſh Prieſt, that main Pillar of the Popiſh Empire, the Juriſdiction of *Marriage*, *Filiation*, *Aliment*, and *Succeſſion*, and the Arbitrary diſpoſing of the ſame, both in Kingdoms and Private Patrimonies.

2. This gives him the Power of ſetting up Images, as appears in the fore-cited Example of the Emperor *Leo Iſaurus* Excommunicated and Depoſed, becauſe he forbad Images.

3. This gives him Power to Aſſaſſinate Kings, of which are a multitude of Examples.

4. This gives him a Power of Confiſcating Kingdoms, and Selling them to others.

5. This gives him Power to Confiſcate and Impriſon Arbitrarily the Subjects by *Excommunicato Capiendo's*, as is before declared.

6. This gives him Power of taking from the People the free Election of their Parochial Miniſters, and impoſing on them the Popiſh Sacrament, of Orders and Ordination, contrary to the Law of God.

7. This gives him Power to compell Confeſſion of Sins to be made to the Prieſt, which ought only to be made to God, the Magiſtrate, and the Brother injured.

8. This gives him Power to impoſe Penance and Corporal puniſhment; which ought only to be done by the Magiſtrate, (1.) Becauſe the Magiſtrate ſhould elſe bear the Sword in vain. (2.) Becauſe it is unjuſt the Magiſtrate ſhould penance or puniſh once, and the Prieſt puniſh again for the ſame Sin; for, *Nemo debet bis puniri pro eodem delicto.*

9. This gives him Power of impoſing what Commutation-Money and Arbitrary Fine he pleaſeth, which is a Subverſion of all Propriety in Goods.

10. This gives him Power to ſell Abſolutions and Pardons of Sins, and compell the ſame to be taken from the Prieſt, which ought only to be taken from God, the Magiſtrate, and the Brother injured, for *unumquodque diſſolvitur eodem modo quo conſtatum eſt*, none can pardon an Offence againſt a Law, but a Legiſlator; none can releaſe a Treſpas, but the Party againſt whom the Treſpaſs is committed.

11. This not only gives him Power, by Pardon to Null the Laws of God and Men, and the Penalties of the ſame, but to Enact Arbitrarily new Laws and Penalties contrary and Superior to the Law of God, *viz.* Ceremonial Laws made by the Prieſt, contrary and Superior to the Moral Law made by God.

12. This Impowers him to Uſurp the Throne of God himſelf, in the Soul and Conſcience of man, wherein none ought to be Judg but God himſelf.

Excommunication without a Sign of Miſſion, not Inſtituted by Chriſt, but invented by Pagan *Prieſts and Damons.*

That Chriſt never Judged nor Condemned any, though he heard him Preach in Perſon, and believed not, appears by the Scripture; Faith and Infidelity being rather unavoidable Paſſions, than free Actions of the Soul, it being not in humane Power to believe what the Conſcience is not convinced of, or not to believe that whereof it is convinced; and that Chriſt never appointed ſo much as a Non-Communion (which is far leſs than an Excommunication) with Hereticks or unbelievers, appears by his Example of Eating and Drinking with the *Phariſees*, and his frequent Converſe with all the *Jewiſh* Sects, yea with *Samaritans*; and, what is more, he Eat and Drank with *Publicans* and Sinners, and taught, The whole needed not the Phyſician, but thoſe who are Sick; and how great a weakning 'tis to Religion, not to admit Liberty to Diſſentients in Faith and Form of Worſhip, but to perſecute them with Excommunication, though brevity permit me not here to ſpeak, I may on another occaſion ſhew. *Waldus* and *Wickliff*, who were Proteſtants, taught, That Excommunications, Suſpenſions and Interdicts, were only inventions to maintain the Biſhops Pride and Covetouſneſs; and that they were Murderers who deliver'd over to the Lay-power: The ſame held *John Hus* and *Jerom* of *Prague*, who were therefore Martyr'd by the Papiſts; *Luther* likewiſe oppoſed Excommunication; and *Eraſtus*, and many other Learned men, have ſufficiently proved the impoſture of it, and that it never came from Chriſt,

Biſhops Murderers to deliver to the Lay-Power.

Chriſt, but the true Original from whence it came, appears in the Examples following: *Numa Pompilius* the old Superſtitious Law-giver of *Rome*, who had his Law (or he feigned) from his Nymph, or She-Devil *Egeria*, firſt inſtituted his *Pontifex Maximus* or High-Prieſt, which name the Pope hath ſince aſſumed to himſelf, and gave him Power over all Sacrifices and Ceremonies, to make propitious their Celeſtial, and eſpecially to appeaſe the *Manes* and infernal Gods, under whoſe Power they believed the Souls lay after Death, and made their Superſtitious Followers to believe, That the Prieſts, who were Maſters of theſe Ceremonies, could ſend their Souls to Heaven or Hell, as they pleaſed, according to *Virgil*,

——*Animas ille evocat Orco,*
Pallentes alias ſub triſtia Tartara mittit.

He ſome pale Ghoſts with Voice, as with a Spell
Call'd up, and others head-long caſt to Hell.

Supremacy got by Excommunication.

And by this Superſtition the *Pagan* Prieſts got their Supremacy over the World; by the like means did the naked *Druides* get Supremacy over the *Gallick* and *Britiſh* Cavalry, as appears by *Cæſ. Com. de Bell. Gall. p.* 157. where he ſaith, *In omni* Gallia *eorum hominum qui in aliquo ſunt numero atq; honore, genera ſunt duo; nam plebs pene Servorum habetur loco, ſed de his duobus generibus alterum eſt* Druidum, *alterum Equitum. Illi rebus divinis interſunt, Sacrificia publica & privata procurant, Religiones interpretantur; ad hos magnus adoleſcentum numerus Diſciplinæ cauſâ concurrit, Magnoq; ii apud eos ſunt in honore, nam fere de omnibus controverſiis publicis privatiſq; conſtituunt, & ſi quod eſt admiſſum, ſi cædes facta, ſi de hæreditate, ſi de finibus controverſia eſt, iidem diſcernunt præmia pœnaſq; conſtituunt; ſiquis aut privatus aut populus eorum decreto non ſtetit Sacrificiis interdicunt; hæc pœna apud eos eſt graviſſima, quibus ita eſt interdictum ii numero impiorum & ſceleratorum habentur, ab iis omnes decedunt, aditum eorum ſermonemq; defugiunt ne quid ex contagione incommodi accipiant, neq; iis petentibus jus redditur, neq; honos ullus tribuitur. His omnibus* Druidibus *præeſt unus, qui ſummam apud eos Authoritatem habet, hoc mortuo ſiquis ex reliquis excellit, dignitate ſuccedet, ſi ſunt plures, ſuffragio* Druidum *adlegitur; nonnunquam etiam de Pontificatu Armis contendunt.* And after, he ſaith, *Druides à bello abeſſe conſueverunt, neq; tributa unà cum reliquis pendunt, militiæ vacationem, omniumq; rerum habent communitatem.*

Here is the perfect Platform of the modern Excommunication, and

the Privileges claimed by Biſhops, and that impious Puniſhment, *Negatis petentibus jus redditur*, that a Perſon Excommunicated, right or wrong, ſhall not be permitted to Sue for his Right, though never ſo juſt; and the like, with the Excommunication inſtituted by the Beaſt, *Rev.* 13. 17. *That no man might Buy or Sell, ſave he that had the Mark, or the name of the Beaſt.*

A Satyr *in Defiance of all Excommunication, without a Sign of Miſſion from God.*

DAmn'd Fiend of Hell, who firſt in Earth or Skie
Did'ſt counterfeit the Voice of the moſt High,
And both to God and Man, to ſhew thy Hate,
In darkeſt Clouds didſt dare to Fulminate;
Either of Ignorance or Air, the Light
Of humane Souls, or Sun to cloſe in Night;
That thy Sulphurean Sentences might blaze
Like Comets, and the fooliſh World amaze;
That to thy falſe Fires Knees and Hearts might bow,
And the true Fire and God they might not know.
Thou *Druids* firſt taught'ſt in our Iſle to ſing
Dirge's to Souls, which made the Woods to ring;
And did, they thought, tranſport them in a trice
To happier Groves, or to Fools Paradiſe;
This the old *Britons* Courage made renew,
And more than Woad themſelves their Foes look blue,
Whoſe trembling Souls they made with Fear to groan,
Of *Styx*, with Fiery Water, where was none,
To Bleſs or Curſe, they car'd not, right or wrong,
Thus Prieſts the Spoils got, Soldiers a Song;
Who ſhould be Arch-Prieſt, raiſed Civil Wars,
The Foreſt ratled then with Armed Cars;
And naked Anti-Popes far off from Fights,
Spit Fire at one another, juſt like Sprights:
Each ſide were Martyrs made, who dy'd of Wounds
Sans nombre, which did ſo o'reſtock the bounds
Of the *Elizian* Common, that they tell
Souls after Death Fought, who ſhould go to Hell;
With this inchanted Sword more ill to do,
They ſtole or took by force the Civil too;

And

And like ſo many *Kets* in Savage State
Under their Oaks of Reformation Sate,
And Judged all Cauſes, and of Peace and Wars,
The Treaſures got thus, without Wounds or Scars,
All to their Sentence bowed, as to Fate,
Whom they but doom'd to Excommunicate;
Yet they no Sign of Miſſion thus to do
Had, but their Oak, and on it *Miſſeto*. *Druydſ Sign of Miſſion.*
The *Druids* dead, they left their Furies Whip,
Brothers and Siſters falling firſt to ſtrip;
And as their Worſhips pleas'd, to Laſh and Jerk,
Firſt to one Pope, then many in a Kirk;
Nobles and Poor Bare-Footed, and Bare-Leg'd,
Stood at Church-door, and for their Pardons Beg'd;
Which to be granted, were ſo long delay'd,
Till Commutation-Money firſt was paid;
Unto the ſame, they next gave by their Will
Their flaming Sword, to Strike, Depoſe, and Kill
High Emperors and Kings, and cut the bands
Of Subjects Oaths and Faith at their Commands;
Blind *Cupids* Arrows firſt they ſtole of Love,
And after, thus, the Thunderbolts of *Jove*.
The *Romiſh Druids* next to ſhew a Sign, *The Romiſh Biſhops Sign of Miſſion.*
That their Infernal Miſſion was Divine;
By their Black Magick Art in time moſt ſtrange,
The *hollow Oak* to *holy Church* did change;
And on the top they made the *Miſſeto*
To turn, and there into a Steeple grow,
And Leavs to Ropes, and Berries into Bells
Transform'd, to Ring to Weddings, and to Knells.
To an *Aceldama* their Church turn'd next,
And the dead Bones for Burial-Fees they vext;
Their reſtleſs reſt thus purchaſed in vain,
They then for Reliques dig'd them up again;
And ſell their Merits, though of *Tyburn*-Saints,
And Heaven to all, whoſe Purſe or Faith not faints.
Oh *Joſeph*, of *Arimathea* nam'd,
And on the *Britiſh*-Shores for ever fam'd;
Whoſe Ship of *Olive*-planks from *Paleſtine*,
Of Tidings glad the Pacquet brought Divine.

The

The Sea Nymphs danc'd each with a Triton Mate,
For joy thou mad'ſt their Iſles the Fortunate.
Oh tell us! had thy Veſſels ſuch broad ſides
Of Canon, as that which in *Tybur* rides?
Whoſe roaring Thunder beats, and buries Towns,
Cities and Churches, Kingdoms and their Crowns,
And ſinks them, how, or whither none can tell,
To Time-ſet *Limbo's* or Eternal Hell:
Or from thy Bark, being then the *Weſtern*-Church,
Thy Paſſengers to leave ſo in the lurch,
Did'ſt thou caſt overboard, and in the Dark
Leave them there to be ſnapt by the old Shark,
That thou their *Cargo* rifle might'ſt the while,
And Gold and Silver, like a Pyrat vile?
Tell us, did Chriſt the great or leſſer Curſe
Teach, who were bad before, to make them worſe?
Or Bleſs or Curſe not, did he who did ſay,
Intend, and mean the clean contrary way?
Who left his Peace, did he bid to annoy,
Who came the World to ſave, would he deſtroy?
From Satan who ſo oft deliver'd men,
Them back again did he caſt to his Den?
He in this World who Kingdom would have none,
Did he bid Prieſts Depoſe Kings from the Throne?
Deliverance to Captives who did Preach,
Prieſts them to ſtarve in Priſon did he Teach?
When *Peter* warm'd, did for his Maſter mourn,
All whom he Maſter'd did he bid him burn?
No *Joſeph*, no; this was not the good Seed
Thou brought'ſt and Sow'd'ſt, whereon the Flocks might feed,
The Evil One thoſe Fiery taſted Tares
Sowed, and them intangled with Snares;
None but the Devil, from th' Infernal Pit,
Doth Curſe and Ban, and Fire and Brimſtone Spit.
Great *Hus* and *Jerom* now for ever bleſt,
Oh two true Witneſſes Slain by the Beaſt!
Whoſe Treachery ſafe Conduct gave to both,
But baſely perjur'd broke it, and his Oath.
You who made tremble the Infernal States,
And dared Attaque black *Dis* at his own Gates,

What

What was your Doctrine, which ſo terrified
The pompous Popedom in its higheſt Pride?
You held, (and that made them ſo highly hate)
That Biſhops could not Excommunicate,
This did you both from thence to Heaven raiſe,
And ſent you thither Crown'd with Fiery Bays;
And Sparks of you, to Stellifie, this ſent
With Proteſtants the *Britiſh* Firmament.
Brave Hero's now, the horned Miter pull
From *Phalaris* of *Rome* his Brazen Bull,
Hear your dead Martyrs how they do you preſs,
And cry from all his Fiery Furnaces,
Diſmount his Canons from the Battlements,
Of his Church-Catholick, which get his Rents.
Take from the Building but the Thunder-ſtone,
Oh then for ever down falls *Babylon*.

An Epode *on* Proteſtants *Excommunicated by* Papiſts.

What though with Bans and Curſes,
They Rob and Kill, and take our Purſes?
In higheſt Faith come on,
And know there hath, or ſhall be none
Happy decreed by Fate,
But who firſt was, or is unfortunate.

Arm, Arm, againſt the Devil,
He'l flie, and all his Spirits Evil.
And Beaſt with Seven Heads,
If on your Land or Sea he treads,
To fight him never ſpare,
Soldiers and Poor, each one then take your ſhare.

What though whole Armies riſing
From Earth, are fearful hearts Surpriſing,
And Dæmons of the Air
Fighting in Clouds, tempt to Deſpair?
What though they come from Hell?
There's no Enchantment againſt *Iſrael*.

At this time was a great noiſe in the Countries, of Armies ſeen riſing out of the ground, and others in the Air.

Hark

Hark how our Canons Thunder,
And keep the *Romish* Canons under;
Their Organs grunt and whine,
Our Flutes and Haubois are Divine;
And Cornets to the Skie,
Sound for *Religion*, and for *Liberty*.

Angels to hear, grow prouder,
Than theirs our holy Musick louder,
And valiant Souls shall bear
From Death to Musick's highest Sphere.
Who burn would not like a Brand,
That thus renown'd may die with Sword in hand?

Whether an Union can be of Protestant-Parliaments and Churches, without a true Test between Papist and Protestant?

Test between Papist and Protestant.

Neither Protestant-Parliaments or Churches can be Known without a true Test, much less therefore can they be United.

Whether Recusancy to pray in a Temple, or in the Form of Common-Prayer, is a true Test between Papist and Protestant?

A true Test ought to Provide and see that there be none in it of the Servants of the Lord, but the Worshippers of *Baal* only, 2 *Kings* 10. 23. But in this of Recusancy to pray in a Temple, are all the true Worshippers of God in Spirit and Truth, if we may believe Christs Precept and Designation of them, at large before Debated, *p.* 210. *&c.* in Reference to the Omnipresential Worship of God.

Christ in thy Closet bids thee Pray,
Thine is there both the Church and Key;
What though no Bishop walk'd it round?
Gods being there makes holy Ground.

The

The miſchiefs of Compelling Proteſtants to a Form of Common-Prayer, appear too much in being the occaſion of the firſt breaking out of the late miſerable Civil Wars, and the Irreparable loſs of his then Majeſty; the miſchiefs of Compelling Papiſts to Proteſtant-Churches, appear in this, That one Church-Papiſt is more Dangerous than an Hundred open Abſenters; and they who truly underſtand the Danger of Mixing, would rather think it prudent, like the Primitive Chriſtians, to have a Non-Communion with Idolaters, and their *Oſtiarii* as they had, to ſee none crept into the Places of their Convention for Prayer, than compell ſuch Bloody Spies, incenſed by Penal Laws, thither to betray them.

Whether Recuſancy to receive the Sacrament in a Temple, or in the Common-Form, is a true Teſt?

This likewiſe is before Diſcuſs'd, *p.* 212. and Examples of the frequent Poiſoning the Sacrament by the Prieſt, *p.* 240, & 241. To compell therefore any Eminent Proteſtants to Receive the Sacrament of ſuch Perſons of whom they cannot be aſſured, were to be Acceſſary to their Murder.

Whether Subſcription to the 39. Articles is a true Teſt?

'Tis ſhewn before, That no true Teſt ought to endanger the Conſcience of any Proteſtant; but 'tis notorious, that the greateſt part of Proteſtants are Diſſentients in Conſcience to divers Doctrines of the 39. Articles, and therefore Subſcription to the ſame is no true Teſt, nor ought to be Impoſed on them. (1.) Becauſe theſe 39. Articles were made by the Biſhops, *Anno* 1562. in the Fourth Year of the Reign of Queen *Elizabeth*, while the Papiſt Peers were yet in Parliament, and in Power, who with the Biſhops in their Front, were too hard for her, and of whom ſhe might then ſay,

Res dura & Regni Novitas me talia cogunt.

She was not able to perfect Reformation at one Stroke. (2.) Becauſe in theſe Articles Biſhops preſumed to be Legiſlators, Judges and Executioners in their own Caſe, for the Biſhops make the Article 36. whereby they Conſtitute themſelves Arch-Biſhops and Biſhops; and Article 32.

They Declare it lawful for all men to Marry; Article 34. They Ridiculouſly make Traditions of the Church to be Changeable, according to Diverſity of Countries, Times, and mens Manners; ſo before they come to their Ceremonial Law, they ſet up their Legend-Law, and the Ceremonies muſt be Founded on what Legends they pleaſe, and no man muſt oppoſe either Tradition, or Legend, or Ceremonies ſet up by Common Authority, that is, by Authority of the Biſhops (for the Houſe of Commons never Authorized them) *Reg. Art.* 34. *Prop.* 2. *p.* 196. Then, Article 33. they Order Excommunication, Delivery to Satan, Penance, and Abſolution. Then, to compell the Obſervation of theſe Articles, *Anno* 1603. They aſſume the Legiſlative Power to make Canons and Conſtitutions Eccleſiaſtical, without the aſſent of the Houſe of Commons; they Order Saying or Singing of Common-Prayer and the Letany, with all the Ceremonies preſcribed by the *Can.* 14, 15. Copes, Surplices and Hoods to be worn in Cathedrals, by *Can.* 17, 27. Marriage not to be without Banns or Licenſe. *Can.* 62. None to deliver from Satan without the Biſhops Licenſe. *Can.* 72. And no Miniſter to Preach, Read Lecture, or Catechize, without Subſcription to the 39. Articles. *Can.* 36, 37. And then to make clear work, they Order, That if any affirm any of the Nine and Thirty Articles made by the Arch-Biſhops and Biſhops, to be in any part Erroneous, or ſuch as he may not with a good Conſcience Subſcribe to, let him be Excommunicate *Ipſo facto*, which is without Summons or Hearing. *Can.* 5. *Can.* 9. So, unleſs the Proteſtant-Miniſter will Popiſhly acknowledg the Biſhop to be Infallible and without Error, and that all his Traditions and Ceremonies of Worſhip, of Marriage, and the like, Ordained by Epiſcopal Authority are, of Divine Right to oblige the Conſcience; and that he neither can Teach, nor Faſt, nor Pray, though to deliver from the Devil, without his Licenſe; Here is a Teſt wherein the Biſhop aſſumes to be Legiſlator, Judg, an *Ipſo facto* Executioner in his own Cauſe, againſt a Proteſtant-Miniſter, and not only prohibited to ſpeak, but his Conſcience to think againſt it, in his own Defence. (3.) This Subſcription to the 39. Articles ought not to be Impoſed as a Teſt, becauſe neither the ſaid Book of Articles, nor Book of Canons, had the Aſſent of the Houſe of Commons at the time of their Making, without whoſe Actual and Expreſs Aſſent, no Law, or Canon, or Article, can be made to oblige the Subject, which is more fully proved before.

Book of 39. Articles, and of Canons, oblige not the Subjects to Clergy or Lay.

Whether

Whether the Poſitive part of the Oath of Supremacy is a true Teſt?

The Form of the Oath, 1. *Eliz.* 1. is as followeth.

I A. B. do utterly Teſtifie and Declare in my Conſcience, That the Kings Highneſs is the only Supreme Governor of this Realm, and of all other his Highneſs's Dominions and Countries, as well in all Spiritual or Eccleſiaſtical Things or Cauſes, as Temporal; and that no Foreign Prince, Perſon, Prelate, State or Potentate, hath, or ought to have, any Juriſdiction, Power, Superiority, Preheminence or Authority, Eccleſiaſtical or Spiritual, within this Realm; and therefore I do utterly Renounce and Forſake all Foreign Juriſdictions, Powers, Superiorities and Authorities, and do promiſe that from henceforth, I ſhall bear Faith and true Allegiance to the Kings Highneſs, his Heirs and lawful Succeſſors, or United and Annexed to the Imperial Crown of this Realm. So help me God, and by the Contents of this Book.

It being granted that no true Teſt can be, which the Conſcience of a Proteſtant, weak or ſtrong, ignorant or knowing, refuſeth, or is doubtful to take, it is manifeſt, that the poſitive part is refuſed by a very conſiderable part of the People, and a greater part are doubtful, and take it with Reluctancy; yet are they ſuch as cannot be doubted to be ſincere Proteſtants in Religion, and moſt Faithful and Loyal Subjects to the King; and their Objections ſeem to be theſe:

(1.) The words [*only Supreme Governor*] are of ſo infinite and unlimited an Extent in the Letter, that there is neceſſity of limiting them in the intention, which intention being Implicit only, and not Expreſs, may be made ſo various by Expoſitors, that the ſame likewiſe is infinitely ambiguous and unintelligible; and that Pious Queen *Elizabeth* being at her firſt Entry to the Kingdom, as good as under the Wardſhips of Biſhops, could not avoid the Forming of this Oath of Supremacy by them, on the firſt Act and Year of her Reign, and to impoſe the ſame on the Subjects; not for her Benefit, but their own, though after finding the ſame ſo general, obſcure, and wreſted by falſe Interpretations, ſhe endeavour'd by a ſubſequent Declaration publiſhed, to have explained and limited the ſame, according to her true intention and meaning; but the ſame being not done by Act of Parliament, proved not ſufficient to relieve many doubtful and wounded Conſciences amongſt the People; of which *vide* more at large before, *p.* 167, 168.

The words [*only Supreme*] exclude Parliaments.

(2.) The words [*Supreme Governor,*] include both the Legiſlative, Judicial and Executive Power, and the word [*only*] excludes literally the Parliament from having any Vote in either; whereas the known Law of the Land is, That no Law can be Enacted to bind the People, without the mutual Aſſent of the King, and their lawful Repreſentative in Parliament; and that no Contract of Supreme Government can be made, without the Aſſent of two Parties at leaſt, and not one only.

(3.) The words [*only Supreme Governor in all Spiritual things,*] according to the Letter, include the Papal Power of Diſpenſation with the Law of God, of Receiving Confeſſions of Sins, Impoſing Penance, Excommunication, Abſolution, and Pardon of Sins, which are Powers only belonging to God in Perſon, and ought not to be Aſſumed or Exerciſed by Angels, Saints, Dæmons or Men.

(4.) The ſame words include Supreme Power over the Souls and Conſciences of men, which is a Power belonging only to God in Perſon, and ought not to be Aſſumed by Angels, Saints, Dæmons or Men.

(5.) When all this Supremacy in Spiritual things is congeſted into an Oath, and the Flowers inſeparable from the Celeſtial Crown preſumptuouſly attempted to be torn thence, and annexed to a Temporal, what is the Deſign and Effect of it, but that the Biſhop Robs both God and the King of the Supremacy pretended to both, but intended to neither? for where will the Biſhop permit the Temporal Prince to diſpenſe with the Law of God, to Receive Confeſſion of Sins, to Impoſe Penance, to Excommunicate, to give Abſolution and Pardon of Sins, but he will command him to deſiſt, or, what is worſe, with his Temporal Sword to beat the Buſh, that the Biſhop may catch the Bird, or with his *Excommunicato Capiendo*, and *Hæretico Comburendo*, to catch and roaſt the Bird himſelf for the Biſhop to eat it; and of the ſubtlety of the Biſhop, as to this matter, ſee more before, *p.* 167, 168, 169. How little incouragement there is therefore, for Proteſtants to take this Oath of Supremacy, wherein the Kings name is only abuſed, and made a Stale, to draw a Supreme and Arbitrary Power to Biſhops, both over the King and them, and to drein the Royal Treaſury into their own Pockets; and how untrue a Teſt ſuch an Oath muſt be, is humbly ſubmitted to Supreme Authority.

Supremacy granted, by Act of Parliament, of Marriage and Legi-

(6.) By the Statute 25, *H.* 8. 21. Power is granted to the Archbiſhop of *Canterbury* and his Succeſſors, by their Diſcretions to Grant unto the King, his Heirs and Succeſſors, all ſuch Licenſes, Diſpenſations, Compoſitions, Faculties, Grants, Reſcripts, Delegacies for Cauſes not contrary to the holy Scriptures and Laws of God, as heretofore

tofore had been uſed and accuſtomed to be held and obtained by his Highneſs, or by any his moſt Noble Progenitors at the See of *Rome*; and all Children procreated after Matriage, by virtue of any ſuch Licenſe or Diſpenſations, ſhall be admitted and r.puted Legitimate in all Courts Spiritual and Temporal. So this Act of Parliament made in time of Popery, tranſlates the Pope from *Rome* to *Canterbury*, and the Supremacy before uſed or accuſtomed by him, over the King and his Subjects, concerning all the matters mention'd in the Act, is placed in the Perſon of the Arch-Biſhop; and the Biſhops call this a Supremacy in them according to Scripture and the Law of God, which is worſe, and more Papal, than to claim it only by Act of Parliament; for what more Papal Supremacy can there be, than Power to Grant Licenſes, Diſpenſations, Faculties, Compoſitions, Grants, Reſcripts, Delegacies of Marriage, Legitimation, and all other matters which Popes have formerly granted from *Rome* to Kings and their Subjects at diſcretion? and this *Exceptio* is *contraria facto*; for the granting of Licenſes by Popes to Kings, is contrary to the Law of the Land, and is a Power Supreme to the Legiſlative, and Law of the Land; ſo the Grant in the Act is Repugnant to the Exception; for o Licenſes or Diſpenſations are neceſſary, but where there is a ſtanding Law of God or Man to be Licenſed or Diſpenſed with, no Compoſition or Pardon neceſſary, but where there is a ſtanding Law violated or broken; no Faculty neceſſary, but where is a ſtanding Law diſabling the Party to do what he deſires to have a Fa.ulty for, that he may be enabled to do. No Reſcript is, but from a Supreme Prince; no Delegacy, but from a Superior to an Inferior; for the Pope is Superior to his Legate, though he be *Legatus à Latere*; and the higheſt preferment this Popiſh Act of Parliament allows the King, is, to be the Arch-Biſhop's Legate; then the Act having made him Supreme to the Legiſlative, Law, and King, gives him as high Supremacy over the Judicial Power in all Courts, as well Spiritual as Temporal, which is, Supremacy over the Parliament, which is a Court-Temporal. This Act therefore doth ſet up more than Prelacy or Arch-Prelacy at *Canterbury*, for that was there before, and the Gyants had piled up *Pelion* on *Oſſa* already, and now they ſteeple it with *Olympus*, and if they ſet not on the Gyants head the Triple Crown, 'tis ſure they have the Triple Miter three ſtories high, of Prelacy, Arch-Prelacy, and Supremacy. When the Arch-Biſhop got therefore of the Parliament this Act, he was ſomething like the *Carpenter* who begg'd of the Wood only one *Helve* long enough to turn his Hatchet into an Ax, and when he had got that, he cut down the whole Wood, for he having now got ſo long a *Helve* to his Spiritual

timation, to *Canterbury*, yet Sworn to be in the King.

Spiritual Hatchet, as Supremacy over the Marriage, not only of the old Palm Trees, and Legitimations of the young, at his Diſcretion (that is to ſay, if they give him whatſoever Money he asks for Diſpenſation and Legitimation) this gives him likewiſe Power to ſtrike both at Root and Branch of all the Royal Proteſtant-Cedars themſelves, in the Popiſh Points of Ceremonial Marriage and Legitimation, endeavour'd now to be brought to the true Teſt of a more Supreme Law and Judg than his, the Moral Law of God himſelf. How therefore the Proteſtant can ſafely Swear in Conſcience, the Supremacy to be only in the King, when ſo great a ſhare of it is granted to the Arch-Biſhop by the King and Parliament; until the ſame Act of Parliament of 25. *H.* 8. 21. by which 'tis done, is Repealed, I confeſs my Ignorance, and, if it be without cauſe, crave Pardon.

(7.) The Party who is to Swear who is the only Supreme Governour, muſt be intended to Swear either who is Supreme *De Facto*, or *De Jure*; if *De Facto*, who hath the Actual Power of the Sword, it may happen to be in a time of War, when two Armies are in the Field, and *Inter utrumq; Volat Dubiis Victoria pennis.* It is neceſſary at ſuch a time, that the Swearer, unleſs he will Forſwear himſelf, be a Prophet; of whom there are not many in this Age, amongſt ſuch as take the Oath of Supremacy; if it be ſaid the Swearer ought to Swear *De Jure*, who hath Right to be only Supreme Governor, to this is Anſwer'd, (1.) Unleſs he can Swear to the matter in Fact, he cannot Swear to the matter of Law or Right, for *Ex facto jus Oritur*, all matter of Law muſt ariſe from the matter of Fact, therefore the Fact muſt be firſt known, before the Right can be known, which is to be deduced from it. (2.) The Right, when the Oath is required, may be as to Succeſſion of the Crown; wherein the matter of Fact depending only on Genealogies, the Heralds themſelves, eſpecially after Wars, may not be able to make any clear probation of the Deſcents; as *Ezra* 2. 62. and *Nehem.* 7. 64. it is ſaid, *Thoſe ſought their Reziſter among thoſe that were reckoned by Genealogie, but it was not found: therefore were they, as Polluted, put from the Prieſt-hood.* If therefore the Genealogies of Prieſts who were themſelves the Regiſters, and kept their own Deſcents as curiouſly as was poſſible, may be loſt, much eaſier may thoſe of the Lay; and the Law and Divinity may likewiſe be ſo doubtful, that it is juſtly acknowledged by the King and Parliament themſelves, 25. *H.* 8. 22. That Ambiguities and Doubts touching the Succeſſions of the Crown, have been Cauſes of much Trouble, and no perfect and ſubſtantial Law hath been made for Remedy of the ſame; and accordingly at the Death of Queen *Elizabeth*, there were no leſs than Six-

teen

teen Titles endeavour'd to have been ſet on foot to the Succeſſion, partly by Papiſts to overthrow the Proteſtant-Religion, partly by others to overthrow the Union between the two Kingdoms, in the Perſon of King *James*, in which the Proteſtants of both were ſo much concern'd, and others for their own private Ambition; if therefore Parliaments themſelves have not, or ſhall not ſufficiently clear Ambiguities and Doubts, to anſwer ſo many pretences; How can it be expected that Ignorant people can clear the ſame, upon their Oath or Conſcience? (3.) It is permitted to Grand Juries, when it doth not appear to them whether the Bill is true or falſe, to find an *Ignoramus*; and where the people are totally Ignorant, both of the Fact and Law of Supremacy, why ought they not to be allowed the ſame Equity according to the Truth, to Anſwer *Ignoramus*? (4.) It is againſt the known Maxim, That *Only matters of Fact can be Teſtified by Witneſſes, and matters of Law or Right cannot be Teſtified but by the Law it ſelf.*

(8.) An Uſurper or Idolater may happen to get the Poſſeſſion of the Crown; How then can a Proteſtant Swear to the Right of the firſt in Temporals, or of the ſecond in Spirituals?

(9.) It doth not appear how a Proteſtant may Swear, That no Foreign Prince or Perſon ought to have any Power, Authority or Preheminence Eccleſiaſtical within this Realm, and that he doth renounce all Foreign Power; in regard it may ſo happen, that a Proteſtant-Prince hath, or may be born beyond Sea, and be a Foreign Perſon, and yet on failure of a Lineal Heir, may happen to be the next right Heir to a Proteſtant King after his Deceaſe; it may ſeem therefore to croſs Gods Providence, to Swear to Renounce or Abjure all Foreign Proteſtant-Power as to the Succeſſion; for the Oath puts no diſtinction between Proteſtant and Papal Power, but Renounces all alike, if they are Foreign Perſons.

Of the Miſchiefs which enſue a falſe Teſt between Proteſtant and Papiſt.

(1.) By the ſame, Power is given to the Favourers of Popery, to turn the Edg of all the Penal Statutes made and intended againſt Papiſts, to deſtroy the Proteſtants, and the Preteritions and Pardons intended the Proteſtants, are wholly apply'd in favour of the Papiſt; the Plagues deſigned againſt the *Ægyptians*, are wholly let looſe on the *Iſraelites*; and the Paſſeover to which were invited the *Iſraelites*, is made only a Feaſt for the Papiſt. So did Biſhop *Bancroft*, in the time of Queen *Elizabeth*,

Elizabeth, perſecute all Anti-Papiſt-Proteſtants under the name of Puritans, and Protected all Dominican Prieſts, Seminaries and Papiſts; under pretence of Oppoſing the *Jeſuits*, by preſſing the falſe Teſts of Recuſancy to Pray in a Temple, to Pray after the Common Form, to Receive the Sacrament after the Common Form, to take the Oath of Supremacy, to uſe all Epiſcopal Ceremonies in the Worſhip of God, and the utmoſt Rigor and Penalties of ſuch Recuſancy againſt the Anti-Papiſt Proteſtant, who hath been the only Counterpoiſe againſt the Papiſt, that he hath not over run the Land; and giving Protection to Papiſts againſt the very ſame Teſts and Penal Laws, ſo furiouſly Proſecuted againſt the Anti-Papiſt Proteſtant. So did the ſubtle *Gundamore* give a new Whet to the High-Commiſſion-Court, and turn'd the Edg of the ſame Originally intended againſt the Papiſts, to be againſt the Anti-Papiſt Proteſtant. And ſince Biſhops have been diſcharged of that Commiſſion, yet the ſame Courſe of *Banerefts* and *Gundamores* hath been ſtill continued againſt the Anti-Papiſt-Proteſtants, as then under the name of Puritans, ſo ſince under the name of Fanaticks; ſuch Proteſtants have had the Penalties of Recuſancy laid on them, when Papiſts have Compounded for Trifles, or been abſolutely Pardon'd, ſuch Proteſtants have had the Oath of Supremacy forced on them againſt their Conſcience, when Papiſts have neither had Supremacy nor Allegiance required of them, nor their Conſciences troubled, but have remained abſolutely unſworn, from ſo much as any Oath of Fidelity, unleſs to Foreign Princes; ſuch Proteſtants have had their Houſes utterly Diſarmed, and not ſo much left as ſufficient to keep out a Thief, when Papiſts have had their Houſes full of Arms, and not ſo much as ſearched; ſuch Proteſtant's Children have been, by the Uſurped Power of Biſhops Certificates, made Baſtards, becauſe not Married with the Ceremonies of the *Book of Common Prayer*; and this they have done by pretence of the Canon of the Council of *Trent*, a Foreign Juriſdiction, long ſince aboliſh'd by Act of Parliament; but ſuch Biſhops have never troubled Papiſt's Marriages made by Prieſts or *Jeſuits*, with *Romiſh* Ceremony, nor Null'd them, or Baſtardized their Children; ſuch Proteſtants have been Excommunicated, Curſed, and given to Satan, when a Dog hath not dared (againſt Papiſts) to move his Tongue; ſuch Proteſtants have been Confiſcated, and caſt into Priſon, when Papiſts have Triumphed in Liberty and Propriety.

(2.) Many Able, Loyal, Zealous, Proteſtant-Miniſters are hereby Excluded from Preaching, and Teaching the Goſpel.

(3.) Many

(3.) Many able Loyal and Uſeful Inſtruments, both in Civil and Military Offices, who are Proteſtants, are Excluded, and the King and Parliament deprived of their Service.

(4.) The Offices and Arms of the Three Kingdoms are ingroſs'd into the hands of Perſons Recommended by Papiſts.

An Eſſay of the Form of a Teſt, whereat it ſeems no Proteſtant can ſcruple.

I A. B. *do utterly Teſtifie and Declare in my Conſcience, and in the preſence of God, and do believe that the Pope or Biſhop of* Rome, *or any Biſhop on Earth, is not the Head of the Catholick Church, nor of any National Church of* England, Scotland *or* Ireland, *and that they are not Infallible; and that all ſuch Popes and Biſhops as pretend to Supremacy, either Spiritual or Temporal, or Infallibility, without a Sign of Miſſion from God, are Heretick's. I believe that the Hoſt Conſecrated, Crucifixes, Images, Idols, Reliques of Saints, or Saints themſelves, ought not to be Worſhipt, or Prayed to, in Publick or Private; and that the Maſs is Idolatry. I believe neither Popes nor Biſhops have any Power or Miſſion from God to Exact Auricular Confeſſion, or to Impoſe Penance, or to give Abſolution, Indulgence or Pardon of Sin, or to Redeem from Purgatory, or to give or ſell Heaven or Paradiſe, or any Place in the ſame, or to Excommunicate, Curſe, or Deliver to Satan. And I do therefore utterly Abjure and Renounce all Abſolutions, Indulgences, Pardons of Sins, and Redemptions from Purgatory given, or to be given by any ſuch ſaid Popes or Biſhops, or any deriving Authority from them, and defie all their Excommunications. And I do Promiſe and Swear to be True and Faithful to our Sovereign Lord the King, his Heirs and lawful Succeſſors. So help me God.*

Whether any Teſt of the Conſcience ought to be Penal, either to Proteſtant or Papiſt.

It ſeems not:

(1.) Becauſe to Plant Religion by Penalty, is to Plant it by the Sword, whereof Chriſt gave neither Precept nor Example, but rather a Prohibition Implicit in his Expreſs Command to *Peter*, *Matth.* 26. 52. *Then ſaid Jeſus unto him, Put up again thy Sword into his place: for all they that take the Sword, ſhall periſh with the Sword.* Which

though it prohibit not lawful Defence to thoſe who have the Power of the Sword, which *Peter* had not; yet it prohibits unlawful Invaſions; amongſt all which, that of Conſcience is the greateſt, with a Denunciation of the ill Succeſs ſhall follow, ſufficiently verified in the many Examples of Emperors and Princes, when they went to make War againſt ſuch as Defended their Conſcience.

(2.) To Plant Religion by the Sword, is a Relapſe to Popery, and we commit that Crime our ſelves, which we impute to be the higheſt in them.

(3.) Error in Conſcience is not in the Power of the Party to Redreſs; it is unjuſt therefore to Impoſe a Penalty for what was not in the Parties Power to prevent before, or amend after.

(4.) Thoughts ought not to be puniſh'd by men before they break into External Acts or at leaſt diſcover themſelves by Words or Deeds to External Witneſſes.

(5.) Teſts Penal are no other than the *Romiſh* Inquiſition, compelling men to accuſe themſelves Criminally, or to commit Perjury to avoid it, or to rebell to Defend themſelves againſt it.

(6.) Protection is the more Honourable, which is hence given the Conſciences of Foreign Proteſtants againſt Foreign Papiſts, by how much the more merciful the dealing is of the Native Proteſtants here, towards the Conſciences of their Native Papiſts.

(7.) If a Teſt is made Penal it ceaſes to be a Teſt, for men will Swear contrary to their Conſciences to avoid the Penalty; whereas, if no Penalty on Confeſſion, they would confeſs the Truth.

(8.) This will Puniſh the Innocent together with the Nocent, there being many of the poor ſort of Papiſts who Curſe the Covetouſneſs of their great Ones, who take Bribes, Gifts, and Penſions to themſelves, and leave the Inferiors expoſed to all the Dangers.

It is a ſufficient Uſe of a Teſt therefore, if it only Diſ-Office the Papiſt, to preſerve the Publick Government in Proteſtant-hands.

Whether Papiſts or Proteſtants ought to be Compell'd to Confeſſion of Faith, or any External Form, or Ceremonies of Worſhip, againſt their Conſcience, by Penalties?

It ſeems not:

(1.) Becauſe a Non-Compulſion is not an Approbation, *Non enim idem eſt ferre aliquid ferendum & probare ſi quid probandum non eſt.* Cic. Fam. Epiſt. L. 9. Ep. 6. Neither is it as much as a Toleration of the Popiſh

Popiſh Forms of Worſhip, either of Images, Idols, Crucifixes, Croſſes, Beads, Reliques, Maſſes, &c. But all Acts of Parliament remain in as full force againſt theſe Superſtitions as before, and the Command of Scripture as performable, *Deut.* 12. 2. *Ye ſhall utterly deſtroy all the Places wherein the Nations, which ye ſhall poſſeſs, ſerved their Gods, upon the high Mountains, and upon the Hills, and under every Green Tree. And you ſhall overthrow their Altars, and break their Pillars, and burn their Groves with Fire, and you ſhall hew down the Graven Images of their Gods, and deſtroy the Names of them out of that Place.* But a Non-Compulſion amounts to no more than this, That the Penal Acts againſt Recuſancy and Non-Conformity may be laid aſide equally, as to Papiſt and Proteſtant, which deſtroy all Conſcience in both.

(2.) Becauſe a Non-Compulſion doth not hinder but advance a Publique free Worſhip, according to ſuch Form and Ceremonies as ſhall be allowed by the King and Parliament, only it frees from Force, and takes away the Uſurpt Supremacy of the Biſhops, of Forming Godlineſs into Gain, by reſtoring it to the Legiſlative Power of the King and Parliament.

(3.) Recuſancy is eaſier foil'd by giving way, than contending; and Conformity eaſier won with Lenity, than Rigor; *Vitia quædam facilius tollit Princeps ſi patiens eorum eſt*, ſaith *Senec. de Clementia.*

Cede repugnanti, cedendo Victor abibis.
Minus placet magis quod ſuadetur, quod diſſuadetur placet. Plautus.
Noli Vitia irritare vetando.
Vidi ego nuper equum contra ſua frena tenacem,
Ore reluctanti fulminis ire modo.
Conſtitit, ut primum Laxatas Senſit habenas,
Frænaq; in Effuſa Laxa jacere juba. Ovid.

I ſaw my ſelf an Horſe curb'd with a Bit,
To flie like lightning in deſpight of it:
But ſtill he ſtood, as ſoon as he no Check
Felt, and the looſe Reins caſt were on his Neck.

(4.) *Chryſoſtome Hom. 19. in Matth.* ſaith, *Do the Sheep perſecute the Wolf? No, but the Wolf the Sheep.* Whence appears, that thoſe Proteſtants who perſecute Diſſentient Proteſtants for their Conſcience, are Wolves in Sheeps Clothing, and to be Cenſur'd far worſe than the Papiſts, who do it openly in the Form of a Wolf.

(5.) Thy own Conscience is not Infallible, nor Immutable; *Let him that standeth take heed lest he fall.* It were a great shame therefore to be over-violent in that from which thy own Conscience or Practice may perhaps *ere soone* be Changed.

(6.) Non-Compulsion to discover it self to punishment, is the best Right that a Conscience so Innocent, as abstains from discovering it self only that it may not thereby offend, can crave. *Tacere liceat, nulla Libertas minor à Rege petitur.* Senec. Oedip.

Covetousness the only cause of Compulsion of the Conscience to Confession of Faith, or Form of Worship.

(7.) The Final cause of Punishing Consciences which are silent, and offend not, is only Insatiable Covetousness, which can pretend no other cause or colour of taking the Spoils of Innocents.

Thus Popes and Bishops Rob and Murder the greatest part of Christendome, under the name of Hereticks: And the *Turks* the greatest part of the World, under the name of Unbelievers; and *Mahomet*, after he hath in many places of his *Alcoran*, incited his followers to Fight with, Kill and Slay such Unbelievers, and take their Goods and Lands from them, wherever they can find them; he Commandeth them to bring a share of the Spoils to the Prophet, meaning himself, and saith further, *Alc. cap. 61. God loveth those who Fight in Rank and File for his Law.* And what other Doctrine and Practice do Popes and Bishops Preach and Act, but the same, which shall take the Spoil of the miserable People they get under their Power, for no other Crime but their Conscience; for this they contend one with another, and offer Force to destroy the Conscience it self, and Body and Soul with it, so they may Seise their Prey of Goods and Lands, as *Jezabel* did of *Naboth*, 1 Kings 21. 8. *So she wrote Letters in* Ahab's *name, and Sealed them with his Seal, and sent the Letters unto the Elders and Nobles that were in his City, dwelling with* Naboth. *And she wrote in the Letters, saying, Proclaim a Fast, and set* Naboth *on high among the People; and set two men, Sons of* Belial *before him, to bear witness against him, saying, Thou did'st Blaspheme God and the King. And the men of his City, even the Elders, and the Nobles, who were the Inhabitants in his City, did as* Jezabel *had sent unto them: They Proclaimed a Fast, and set* Naboth *on high among the People. And there came in two men, Children of* Belial, *and sate before him: and the men of* Belial *witnessed against him, even against* Naboth, *in the presence of the People, saying,* Naboth *did Blaspheme God and the King. Then they carried him Forth out of the City, and stoned him with stones, that he Died.* Whence is to be Noted, (1.) That the Whore of *Babylon* imitates *Jezabel*, in sending Letters in the Kings name; for so are all *Excommunicato Capiendo's*, and *Hereti-*

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tico Comburendo's in the name of the King in whoſe Dominions they are Granted, and Sealed with his Seal. (2.) *Jezabel* pretended Religion, Proclaimed a Faſt, and accuſed of Blaſphemy; ſo do the Miniſters of the Whore pretend Religion wholly and ſolely in thoſe Writs. (3.) In this they are worſe than *Jezabel*, for ſhe accuſed only of Blaſphemy, which is an External Act, and if there had been any ſuch thing, it had been poſſible to have been witneſſed, but theſe puniſh and deſtroy for Internal Thoughts and Conſcience. (4.) *Jezabel* accuſed of Actual Blaſphemy againſt God, which is *Malum in ſe*, and againſt the Moral Law; and though *Ahab* and ſhe were both Idolaters, yet did not accuſe *Naboth*, That he was a Recuſant or Non-Conformiſt to come to the Temple of their Idol, or to join in their Common-Prayer before it, or would not bow to their Altar, or obſerve their Ceremonies; nor do we find amongſt all the Idolatries amongſt the *Iſraelites*, that any was compell'd by Force to Worſhip them, neither could there have been Seven Thouſand who had not bowed the Knee to *Baal*, had there been Penal Statutes againſt Recuſancy or Non-Conformity; but the now Maſters of Ceremonies are worſe than *Jezabel*, who deſtroy men unleſs they will break the Moral Law, bow to Idols and Altars, and obey the Ceremonial Law of men above the Moral Law of God.

(8.) That the ſole end of Compulſion to Forms of Worſhip or Confeſſion of Faith, is to get Money, and not the Glory of God. Take theſe farther Examples, in the Primitive times, *Anno* 346. *Euſtathius* Biſhop of *Sebaſtia*, a man of great reputed Integrity and ſtrictneſs of Life, being a Diſſentient from the common practice of other Biſhops, abſented himſelf from the Publick Conventions, where things were practiſed againſt his Conſcience; and kept Meetings in Private Houſes, Preacht and Adminiſtred the Sacrament, not in the places and manner appointed by the other Biſhops Cannons; they ſeeing their Gainful Canons and Orders like to be laid aſide, Conſpired together at the Council of *Gangra* and *Antioch*, making ſevere Canons of their own, and likewiſe pretending Apoſtolical Canons againſt all Biſhops or Presbyters (for ſo were they called) which ſhould be Non-Conformiſts, that they ſhould be Excommunicated and Depoſed, not regarding though to Acts againſt their Conſciences, and not Commanded by the Moral Law of God; but though this Corruption crept in, even in the Primitive times, amongſt thoſe who called themſelves Chriſtians, and the miſery of Iniquity did then begin to work, 2 *Theſ.* 2. 7. *And there were then many Anti-Chriſts*, 1 *John* 2. 18. Yet no Example or Precept could they pretend from Chriſt, or his Apoſtles, for

ſor theſe Anti-Chriſtian and Anti-Apoſtolical Canons, Coin'd to get Money, and Compulſory to Conſciences, either to deſtroy themſelves by Acting contrary to their own Light, or openly to accuſe themſelves, to be deſtroyed by others; where did Chriſt (who aboliſhed all Ceremonials, and Declared the Worſhip of God to be in Spirit and Truth) make ſo much as one Canon againſt Recuſancy to Pray in Temples, or Non-Conformity to Prayer in Forms? Where did Chriſt or his Apoſtles make one Law or Canon Compulſory to the Conſcience in Form of Worſhip, or with the Penalties of Confiſcation, or Excommunication hanging at the tail of it? where did they ever make ſo much as one ſuch Canon of *Marriage*, the matter now in Controverſie? or, where did Chriſt, or any Apoſtle of Chriſt, ſo much as Marry one Couple, or give Authority to any Prieſt to do it, or to receives Fees for the doing? who would never make Canons to compell the Conſcience to that, or any thing elſe, were it not to get Money. *Cyrillus*, who paſſes for a Father of the Church, getting to be Biſhop of *Alexandria*, *Anno Dom.* 418. turn'd out all the Novatians out of their Churches there, they being Non-Conformiſts to his; and the chief matter objected againſt them, was, They were againſt Biſhops, which might have ſatisfied a Succeſſor of Chriſt, who pretended only to lay up Treaſure in Heaven, where neither Moth nor Ruſt doth Corrupt; but he Rifled all the Treaſure from thoſe Churches, and from their Biſhop or Presbyter all the Subſtance he had, and like a new Broom ſwept all clean into his own Coffers, *Socrat. lib.* 7. *cap.* 7. How far different from the Example of Chriſt, who though he whipt the Buyers and Sellers out of the Temple, and overthrew the Tables of the Money-Changers, took not one Penny of the Money; but Biſhop *Cyrill* aim'd at the Monopoly of the Trade to himſelf here on Earth, and left the Treaſure in Heaven to Chriſt. *Theodoſius* Biſhop of *Synada* a City in *Phrygia*, was a great Scourge to Non-Conformiſts, whom he called Hereticks, but he perſecuted them not out of Zeal, but Covetouſneſs to wring Money from them; wherefore to that end there was no Device but he practiſed; and to afflict them the more, he put them in Fetters to hold up their hands at the Bar, *Socrat. lib.* 7. *cap.* 3. But while *Theodoſius* went to *Conſtantinople*, to obtain greater Power yet to Squeez Diſſentients and Non-Conformiſts, and particularly thoſe who were againſt the Faith of one Subſtance; and had above all other Perſecuted *Agapetus* a Biſhop of a contrary Faith; *Agapetus* in his abſence, to gain his Enemies Biſhoprick from him, turn'd to be of the ſame Faith with his Enemy, and acknowledged one Subſtance of the Father and Son, and who before was an *Homoiouſiaſt*, became now an

Homouſiaſt,

Homouſiaſt, and obtain'd thereby the Government of the Dioceſs, Churches, and City of *Synada*; ſhortly after, *Theodoſius* return'd home from *Conſtantinople* to *Synada*, and brought with him the Authority from the Lieutenant, whereof he bragged not a little, that he had enough to Pepper the men to the purpoſe, who were not of one Subſtance with him; and being Ignorant of all the things which were done in his Abſence; he ſtraight way went to the Church, where he found but ſmall welcome, for the Doors were made faſt againſt him; and after he knew their Dealing, again he poſteth to *Conſtantinople*; there he bewail'd his State to *Atticus* the Biſhop, and open'd unto him, That he was Injuriouſly Thruſt from his Biſhoprick; *Atticus* apprehending that all fell out for the Profit of the Church of God, endeavour'd to pacifie him with mild and courteous Language, Exhorting him to embrace a quiet Life void of Trouble and Moleſtation, and not to prefer his own Gain and private Lucre above the Publick Profit and Peace of the Church; and thereon writ to *Agapetus*, willing him to enjoy the Biſhoprick, and not to fear at all the Diſpleaſure of *Theodoſius*, *Id ib.* By which appears, though Biſhops call themſelves Angels and Meſſengers of God, yet are they not like them, of whom it is ſaid, *Luke* 15. 10. *There is joy in the preſence of the Angels of God, over one Sinner that Repenteth.* Nor though they call themſelves Shepherds of the Flock, are they like the good Shepherd of whom Chriſt ſpeaketh, *Matth.* 18. 12. *If a man have an Hundred Sheep, and one of them be gone aſtray, doth he not leave the Ninety and Nine, and goeth into the Mountains and ſeeketh that which is gone aſtray? And if ſo be that he find it, Verily I ſay unto you, he rejoiceth more of that Sheep, than of the Ninety and Nine which went not aſtray.* Nor like Chriſt, who ſaith, *John* 8. 50. *I ſeek not my own Glory.* Nor like *Paul*, who ſaith, 2 *Cor.* 12. 14. *I ſeek not yours, but you.* And *Hebr.* 13. 14. *Here have we no continuing City, but we ſeek one to come.* Nor like thoſe he ſaith died in the Faith, *Hebr.* 11. 13. *Not having received the Promiſes, but having ſeen them afar off, and were perſuaded of them, and embraced them and confeſſed that they were ſtrangers and Pilgrims on the Earth. For they that ſay ſuch things, declare plainly that they ſeek a Country. And truly if they had been mindful of that Country, from whence they came out, they might have had opportunity to have returned: But now they deſire a better Country, that is, an Heavenly.* None of which Examples, would the *Alexandrian* or *Syadan* Biſhop, nor many others follow; nor do they with their Penal Teſts, Forms and Ceremonies, Perſecute to Convert, but to Pervert; and to that end form their Teſts, Oaths and Ceremonies, as contrary to Senſe, Reaſon and Conſcience,

ſcience, as they can poſſible; and as numerous as they are in the 39. Articles, that they may have all either under blind obedience, and take Arbitrarily from them what they pleaſe, or if they will not Renounce their Senſe, Reaſon and Conſcience, they may have a pretence to Plunder them of their Goods; and a Terrible Diſappointment it would be to Biſhops and their Chaplains, if all Miniſters ſhould have turn'd Conformiſts to their Faith, Oaths, Subſcriptions and Ceremonies, for then would all Pluralities have been ſupplied with ſingle Incumbents Reſidents on the Places, and perhaps the greater part of the Biſhopricks and Benefices, with men more above Exception than many of the Poſſeſſors may be; and there might have been many *Peters* in the Church, yet not a *Simon* found amongſt them.

(9.) There ought to be no Compulſion uſed to Papiſts to Pray in a Temple, becauſe it is already proved to be Prohibited by Chriſt, for any to Pray in a Temple or publick Place, except the Parties are agreed.

(10.) It is a Compulſion many times of a doubtful Conſcience, either to Sin or Damnation, as ſome have doubted, *Rom.* 14. 23. or Martyrdom, or Hypocriſie, to ſave their Lives or Goods.

(11.) It is as great a mockery of God, to force men to play the Hypocrites in Ceremonies or Prayers, againſt their Conſciences, in a place of Publick Convention, as to drive Horſes and other Cattle into the Church at the time of Prayer there; and as *Banks* did his Horſe, make them fall on their Knees, and Worſhip the Croſs.

(12.) Compulſion of Papiſts or Proteſtants to Forms of Common-Prayer, deprives them of the Benefit of being taught the Goſpel, by Reaſon that no diſtinction of the place and time of Prayer and Preaching is made, according to the Examples and Precepts of Chriſt, already ſhewn; for all the Common-Prayer being Formed by Popes or Biſhops, is chopt into ſo many pieces of Prayers, Chapters, Leſſons, Reſponds, Letanies, Pſalms, pieces of Epiſtles, pieces of Goſpels, *&c.* as Confound both Method and Memory; and thereby, while the People endeavour to Pray and Learn both at once, they can do neither effectually.

(13.) Compulſion to Common-Prayer deprives both Papiſt & Proteſtant of the Benefit of either Reading, or Hearing the Scripture Read. (1.) Becauſe it is Read in ſuch a mangled immethodical way, neither according to the Contexture of the Hiſtory, nor according to the Titles of a *Concordance* or *Polyanthy*, but both Examples and Precepts broken off confuſedly from what preceded or followed them, whereby they are made unintelligible, and not again joined with ſuch

of

of one another, as ſhould mutually expound them, and both Prayers and Pſalms are Read in ſuch a Canting Note in Cathedrals, as they are not intelligible; ſo, as there is no human Author, Art or Science Read or Taught ſo confuſedly, immethodically and Cantingly, as the Scripture, whereby ſuch as cannot Read themſelves, never hear the ſame Read in any Edifying way their whole Lives, which is done only on deſign of gain, to make more Diſſentient Miniſters, and fewer of the Trade. (2.) Thoſe who are able to Read themſelves, are thereby deprived of the Reading the ſame at their Homes; the Papiſts by their own Prieſts being not ſuffer'd to have an *Engliſh* Bible in their Houſes, and the Proteſtants in *England* being not ſuffer'd by their Prieſts to keep themſelves at their Houſes; whereas in *Holland* many Devout & Pious Proteſtants never go to Churches to hear the Scripture Read, but Read the ſame on *Sundays* at home at their own Houſes, and are far more ready and skilful, and more Pious in practice of the ſame, than thoſe that do Repair to the Publick Reading; neither is there any man Compell'd to Church or Chappel there, but may if they deſire, follow the Precept of Chriſt, to Read or Pray privately in their Cloſet; and the Example of the Primitive Chriſtians, amongſt whom there was not a Temple or Altar for neer 300 Years after Chriſt, till *Conſtantine* corrupted them to ſet up Cathedrals. (3.) Many things in the Common-Prayer being offenſive to many Conſciences, I diſpute not whether weak or ſtrong, or whether they are offences given or taken, but being offenſive to many, ſuch as are offended, and who would gladly come to the Church to hear the Scripture Read by it ſelf, or Expounded in an Expoſition, or Lecture, or Sermon, if the ſame were done as Chriſt always uſed to do it, in a Synagogue, without Prayer mixt with it (the Reaſons whereof are ſufficiently before ſhewn, *p.*) but ſome Conſciences ſcrupling to mix any Prayers with Preaching in a Synagogue contrary to the Precept of Chriſt; & others ſcrupling the Forms of Common-Prayer, whether ſingle, or mixt, they loſe the hearing of Scripture Read, becauſe they ſhall be forced to hear ſuch Prayers as offend them Read or mixt with it; & as long as they are compell'd, how can it be expected, but the number of Non-Conformiſts will be far greater than Conformiſts.

(14.) As the mixture of Common-Prayer deprives both Papiſt and Proteſtant of the Benefit of hearing the Scripture Read in the Hiſtorical Contexture and Order, wherein it was left written; ſo the Prayer before Sermon deprives them of the Benefit of hearing the Scripture Expounded, either in that Method and Order it was left written, or in any other Order or Method appointed by the King and Parliament, of ſuch matters as are neceſſary to Salvation, and tend moſt to the Peace

Noncon-formity to the Prayer before Ser-mon.

of the Church; for unless there were an Interval for the Bell to Toll a space after the end of the Prayer, before the beginning of the Sermon, the Parish who love not long Prayer will not be able to know when the Sermon begins, and very many of them, though they would be all glad to join with the Chaplain in his Prayer for the King, yet will they many of them perhaps have Scruples in Conscience to join with him in Prayer for his Patron. (1.) Because he may sometimes happen to be a Papist, and one that seeks the Destruction of the Protestant Religion and all Protestants, and many may grow doubtful to Pray for the Prosperity of such a one, the same seeming to be Prohibited, 2 *John* 10, 11. Where it is said, *If there come any unto you, and bring not this Doctrine, receive him not into your House, neither bid him God speed. For he that biddeth him God speed, is partaker of all his Evil Deeds.* (2) As to Publick Persons, we are directed by the Scripture to Pray in Publick for none but Persons in publick Authority; but a Papist is by Acts of Parliament Excluded from all publick Authority and Office, therefore no publick Person. (3.) As to private Persons, the Scripture and practice of the Primitive Christians direct to Pray for no private Persons particularly, and by name, but such as are sick or possess'd by the Devil; for in such Case, the direction of Christ, and practice of the Primitive Church, was, to cast him out by Fasting and Prayer; but many Patrons are neither sick nor possess'd, therefore there is no direction in Scripture for them to be Prayed for by name in publick. (4.) The Chaplain useth to Pray for Bishops, especially if Patrons, wherein many Protestants may not be free to join, in regard they many of them assume to themselves to be Judges of Heresie, and the Rule of Heresie they make, is the Four first General Councils, and the Papal Canons for Ceremonies, and against *Lollaries*; the Parliament deceived by the Bishops to leave the Four first Councils, the Rule of Heresie was, 1. *Eliz.* 1. In which Act to Prohibited Commissioners appointed by the Queen by virtue of that Act, to proceed in Judgment of Heresie beyond the words prescrib'd them, the words Prohibited in a Proviso are these, *viz. Shall not in any wise have Authority or Power to Order, Determine or Adjudg, any Matter or Cause to be Heresie, but only such as heretofore have been Determined, Order'd or Adjudged to be Heresie by Authority of the Canonical Scriptures, or by the first Four General Councils, or any of them, or by any other General Council, wherein the same was declared Heresie by express and plain words of the said Canonical Scriptures, or such as shall hereafter be Order'd, Judged or Determined to be Heresie by the High Court of Parliament of this Realm, with the Assent of the Clergy in their Convocation.*

Patron if to be Prayed for in Publick.

Patron a Papist.

If Bishops are Papists, or to be Prayed for who Judge Heresy by the four first Councils.

Of

Of the Four first General Councils, by which Bishops would Judg Heresie, and of the Suspition lies on such Judges to be Papists, and not to be Prayed for in Publick.

The Four first General Councils which I suppose they mean, were the Council of *Nice* in *Bithynia*; the Council of *Constantinople*, where the Great *Turk* Lives; the Council of *Ephesus*, where the Great *Diana* of the *Ephesians*, and the Image which fell from *Jupiter* were Worshipt; and the Council of *Chalcedon* in *Bithynia*.

As to the Council of *Nice*, there were two, one about *Anno Dom.* 330. the other about *Anno Dom.* 381. In the First, called by *Constantine* the Great, there were 318 Bishops; in another call'd by another *Constantine*, there were 350 Bishops, which of these our Bishops would have I cannot tell, but they may wink and choose, and though each was *Nice*, yet neither of them was more Nice than Wise for the Profit of the Bishops; and the Bishops 1. *Elix.* were as wise as they, to join the Canonical Scriptures and the Council of *Nice*, that nothing should be Judged Heresie without their Joint Consent; for the Canonical Scripture hath not so much as one Bishop, they having falsely translated Ἐπίσκοπος a Bishop, which ought to have been an Overseer of the Poor; so as there is not one Bishop to be found in Scripture to be a Judg of Heresie, any more than of Marriage, whereas at one of the *Nices* there were 350. And in the Scripture is not one Image found lawful to be Worshipped, whereas at both the *Nices* there were a multitude; and at the last *Nice* all the Holy Images of *Irene*, the Empress, which the Emperor *Leo Isaurus* had knockt to pieces, were Restored, and Two and Twenty Canons thereupon made, *That all Image-breakers should be adjudged Hereticks*, to the great profit (no doubt) of the Holy Bishops, who knew as well as the Silver-Smiths of *Diana*, wherein their Gain lay. Council of Nice. Set up Images.

The Council of *Constantinople* was a General Council, call'd about the Year of our Lord 383 by *Theodosius* the Emperor, where were 150 Bishops of several Sects, 36 of them were *Macedonians*, who held the Holy-Ghost to be an Angel, because Christ is said to send him; and *Macedonius* their Teacher was then Bishop of *Constantinople*, the place where this Council Sate; Him this Council Deposed, and his Party became thereon Excluded Members, whereby all Votes passed for the Bishop of *Romes* Doctrine, with whom the Bishop of *Constantinople* was always a dangerous Corrival for Supremacy; there were joined in this Coun- Council of *Constantinople*.

Confirmed Images. cil *Theodosius*, *Gratian*, and *Damasus* the Pope; this Council confirmed the *Nicene* Faith, and their Worshipping of Images, for a Pope could not live without them.

Council of *Ephesus*. Another General Council was called at *Ephesus*, about the Year 834 by the Emperor *Theodosius* the Second; and by the Instigation of Pope *Celestine* the First, against *Nestorius* then Bishop of *Constantinople*, who according to *Evagrius*, *l.* 1. *c.* 7. held, That the Blessed Virgin *Mary* ought to be called Χριστοτόκος, and not Θεοτόκος the Mother of Christ, and not the Mother of God, which Doctrine being dangerous to the Worshipping of Images, and the drawing of the Supremacy from *Rome* to *Constantinople*, the Pope got the Council called, and not to sit as formerly at *Constantinople*, but at *Ephesus*, where *Nestorius* had not so much Power, and there being not able to bring him to Submit to the See of *Rome*, they Deposed him, and Banished him to *Oasis*. This Council of *Ephesus* is said to have left Two Copies of its Canons incertain and variant one from another, and some of them are Condemn'd by the Council of *Chalcedon* as Suppositious, which besides the Worshipping of Images, continued by this Council, makes it a Rule of great incertainty to Judg Heresie.

Continued Images.

Council of *Chalcedon*. The last of the Four was the Council of *Chalcedon* in *Bithynia*, which was called by the Emperor *Martianus*, about the Year 455. whereat the Emperor was present in Person, and 630 Bishops and Reverend Fathers from the greatest part of the World. What a work is here, who should Judg Heresie? yet they never placed the Power of Judgment in the Right hand; neither will it be possible to be taken out of the Wrong, nor did any of these Emperors (nor shall any else dare do it) as long as Bishops continue hired with their own Treasure and Revenue, and their own Temporal Sword deliver'd into their hands, for *Rome* and *Constantinople* to Fight for Supremacy over themselves, and to Sentence and Judg them and their Subjects (as *Rome* hath done since it obtain'd Supremacy) at their pleasure. The Bishop of *Rome* had at this time got a Bishop at *Constantinople* placed for his purpose, who was content to acknowlege the Supremacy of Judging Heresie to be in the Bishop of *Rome*, or any else, if he might be Second, and enjoy so Fat an Office as to be Bishop of *Constantinople*; but the City differ'd from their Mercenary Bishop, who was call'd *Anatolius*, and disdaining in their Religion to bow to *Rome*, set up *Eutyches* an Abbot or *Archimandrite* of *Constantinople*, to publish a Doctrine, *That Christ had no Humane, but only a Divine Nature in him*, To suppress which Opinion, *Flavianus*, a former Bishop of *Constantinople*, had moved the Emperor *Theodosius* the Second to call a Council at *Ephesus*, *Anno* 449. wherein

wherein *Eutyches* was Condemn'd by *Flavianus*, yet by the help of *Chryſaphius* the Eunuch, and *Eudoxia* the Empreſs, who favour'd that opinion, *Theodoſius* was prevailed with to make another Synod Judg of this Hereſie, which was again Summon'd by the Emperors Authority at *Epheſus*, and *Dioſcorus* of *Alexandria* made Preſident, at which Synod *Eutyches* is again cleared, and declared Orthodox, and *Flavianus* oppoſing it was ſo, upon that Three Days after he died, and all this being done in the Council of *Epheſus*, *Anno* 449. in *Theodoſius*'s time, was again Repealed and Abrogated, *Anno* 455. in *Martianus*'s time, at the Council of *Chalcedon*, And *Leo* the Firſt Biſhop of *Rome*, by the help of *Anatolius* Biſhop of *Conſtantinople*, and his other Penſioners, carried the Day for Supremacy of Judgment, and Puniſhment of Hereſie; and *Anatolius*, and the See of *Conſtantinople* was to be only next in Dignity to the Infallible Chair of *Rome*.

Conſiderations on the Judgment of Hereſie when aſſumed by Biſhops, according to the Four firſt General Councils, if it make them ſuſpect to be Papiſts, and not fit to be Prayed for in Publick.

(1.) *Coke* ſays this Parliament 1. *Eliz.* 1. was doubtful what they ought to determine Hereſie and Schiſm, and what not, which was as much as the Biſhops needed to deſire, that the Layity might be Ignorant, and they have Power to keep them ſo, and Hereſie a Quære to be Judged by themſelves, *pro Arbitrario*.

(2.) It appears that the Pious Queen, the Dawning of the Reformation but newly entring with her, ſhe could not ſuddenly Diſpell the Darkneſs yet hanging over her own Proteſtant Party, nor the Blacker Clouds gathering from Foreign and Native Papiſts againſt her, nor reſiſt her own Biſhops deſigning to continue thoſe Privileges of Profit, tranſlated by——from *Rome* to *Canterbury*; for certainly if the Proteſtant Party had underſtood, That the Four firſt Councils had adjudged all thoſe to be Hereticks who would not Worſhip Images, and had been able to have over-Voted the Popiſh Party and Biſhops, they would never have given them Power to Judg Hereſie according to thoſe Idolatrous Councils, for thereby they might Sentence them and all Proteſtants that were againſt Images, to the Stake.

(3.) The Bible was but little before Tranſlated into *Engliſh*, yet to keep it more dark ſtill, than if it had continued in *Latine*, they who alledged themſelves Proteſtant-Biſhops, ſent the People to Learn the ſame.

same of *Greek* Councils, and to Read there the Law of Heresie, while they Judged them at home in their *Latine*-Law and *Latine*-Courts the mean while.

(4.) They equal Councils with Canonical Scriptures, that their Convocations and Provincial Synods may have the same Authority.

(5.) They equal their Convocation with the King and Parliament; for the words of the Statute are, *or Determined to be Heresie by High Court of Parliament of this Realm, with the Assent of the Clergy in their Convocation*: Knowing if the Miter once get equal, 'tis but one step more to be above the Crown.

(6.) By those words they Constitute to themselves the Power of a Negative in Legislation, against the King in Parliament, and the two other Estates, which makes them a Fourth Estate in the Legislative Power, knowing, such Fourth Estate, like the Fourth Beast in *Daniel*, may easily Devour all the rest.

(7.) They Judg, since no Commissioners were made, every Bishop in his Diocess a Judg of Heresie *Jure Divino*, and they by their own Popish Canons and the old Popish Acts against *Lollards*, who were the followers of *Wickliff*, and the Primitive Protestants, and the Proto-Martyrs of *England*, Judged Protestancy to be *Lollary* and Heresie; and all the Sheriffs of *England* take an Oath with all their Power, to Destroy all Heresies and Errors, commonly call'd *Lollaries*, which is Protestancy, and to assist the Bishops in the same, whensoever by them Required, whereby they have the whole Military Power at their Command, to Judg and Destroy Protestants as Hereticks.

(8.) They Judg Heresie by their own Ceremonial Laws and Canons, whereby they Arrogate a Power above the Moral Law of God, by which alone all Heresies and Schisms, and all Error and Truth ought to be Judged.

I conclude therefore, That such Bishops, if there are any such, as Exercise all these ways of Popery, many Protestants may happen to suspect them to be Papists for their profit, and therefore scruple to join with their Chaplains in their Prayer before Sermon, for God to speed them.

It will not agree with the Consciences of many Protestants, to join with the Chaplain in publick Prayer for his Patron, (1.) Because all Patronages were invented and erected by the Pope and Papal Laws, and the Strength and Riches of all Popery consists in Patronages, or Power of Presentation to Cathedral, Collegiat, Parochial, or other Religious Churches or Houses. (2.) It is very unjust, that any who must pay the Lawyer or Physician his Fees, should not have Election of such

all Patronage came from the Pope.

ſuch a one of either, as he can Truſt; and much more as to a Divine Lawyer, and Phyſician of his Soul, that any ſhould be Impoſed on him whom he cannot Truſt, and who may perhaps Poiſon him in the Sacrament it ſelf, of which Examples have been already Cited; but the Chaplain who Prays for the Patron, is obtruded on the Pay of the Pariſh without their Aſſent, and the Patron many times pays him not a Penny, but Sells to him his Preſentation, and Exacts ſo great a Sum for it, as brings him in Debt as long as he Lives, which makes him rather Prey on the Flock, then Pray for it, and to be in perpetual Contention, rather than Peace. (3.) Admit the Pariſh ſhould happen to be all Poor, and the Patron by Depopulation, Impropriation, Incloſure of Commons, and other Oppreſſion, Gets all, and Pays all; yet it is juſt the Pariſh ſhould Elect their Miniſter, and not he; for Chriſt ſends it as Glad Tidings to *John*, *Matth.* 11. 5. *The Poor have the Goſpel Preached to them*, and ſaith nothing of the Rich, Chriſt pronounceth all his Bleſſings on the Poor, *Luke* 6. 20. *Bleſſed be ye Poor: for yours is the Kingdom of God. Bleſſed are ye that hunger now: for ye ſhall be filled. Bleſſed are ye that weep now: for ye ſhall laugh.* And *James* 2. 5. *Hath not God choſen the Poor of this World, Rich in Faith, and Heirs of the Kingdom, which he hath promiſed them that love him?* Dan. 4. 27. *Wherefore, O King, let my Counſel be acceptable unto thee, and break off thy ſins by Righteouſneſs, and thine Iniquities by ſhewing Mercy to the Poor.* Prov. 29. 14. *The King that faithfully Judgeth the Poor, his Throne ſhall be Eſtabliſhed for ever.* 2 Cor. 9. 9. *He hath given to the Poor, his Righteouſneſs remaineth for ever.* And *Matth.* 19. 21. *Give to the Poor, and thou ſhalt have Treaſure in Heaven.* But Chriſt never pronounceth to the Rich any thing but great Dangers and Woes, *Matth.* 19. 23. *Then ſaid Jeſus unto his Diſciples; Verily I ſay unto you, that a Rich man ſhall hardly enter into the Kingdom of Heaven. And again I ſay unto you, It is eaſier for a Camel to go through the Eye of a Needle, than for a Rich man to enter into the Kingdom of God.* Luke 6. 24. *Woe unto you that are Rich: for ye have received your Conſolation. Woe unto you that are full: for ye ſhall hunger. Woe unto you that laugh now: for ye ſhall mourn and weep.* Iſa. 5. 8. *Woe unto them that join Houſe to Houſe, and Field to Field.* And *James* 5. 1. *Go to now ye Rich men, Weep and Howl for your Miſeries that ſhall come upon you. Your Riches are corrupted, and your Garments moth-eaten. Your Gold and Silver is cankred, and the ruſt of them ſhall be againſt you, and ſhall eat your Fleſh as it were Fire.* Now if the Rich ſhould choſe the Chaplain for the Poor, he would be apt to Preach contrary to Chriſt, totally in favour of the Rich, and not reprove but animate them in their oppreſſions

preſſions of the Poor, which is too notorious in the Chaplains, both of Eccleſiaſtical and Lay-Patrons; wherefore if Patrons have more than their ſingle Votes in Election of the Miniſter, the poor Pariſhioners may expect ſuch Law as is mention'd, *James* 2, 6. *Do not Rich men oppreſs you, and draw you before the Judgment-Seats?* But they ſhall never have ſuch Goſpel as Chriſt Preach'd, and appointed to be Preached to the Poor, nor ſuch Law as he denounced againſt the Rich. (4.) The Chaplain in his Prayer before Sermon tells God ſo many Lies to his Face in commendation of his Patron, that ſurely it muſt be a meer Mockery of him, for he calls him his Grace, his Excellency, Right Honourable, Right Worſhipful, Pious, Virtuous, and his Very Good Lord and Patron, when ſometimes he is a Perſon of the moſt Vile, Unworthy, Sordid and Wicked Conditions on the Earth. (5.) He gives him more Magnificent Appellations than to God himſelf, for though he ingeminate many times in his Prayer, Good Lord, and Good Lord, yet he never calls God my Very Good Lord, but reſerves that Superlative Title for his Patron; the meaneſt degree of which greateſt Divine Attribute of *Good*, Chriſt himſelf (to be an Exampl'e of Humility) refuſed, *Luke* 18. 19. *Why calleſt thou me Good? there is none Good but one, that is God.* (6.) If the Patron is ſo Very Good, Pious and Virtuous, as the Chaplain makes him, he were more proper to aſcend the Pulpit and pray for his Chaplain, who many times proves none of the beſt, either in Doctrine, or Manners, but was only one who came firſt and gave moſt for the Place he hath. (7.) He is rather an Herald hired to proclaim every *Sunday* in the Year his Patron's empty Titles, than a Meſſenger of God to Preach on his Divine Attributes. (8.) By theſe Paraſitical Prayers the Patron is puft up in ſuch Pride and Folly, that he grows like the profane Lord mention'd by *Cambden*, who ſaid, *He never needed to Pray for himſelf, he had ſo many Prieſts to Pray for him*; and the Patron and Patroneſs are ſo ſop'd with overmuch Flattery, that they ſeldom grow wiſe again as long as they live, to diſcover thoſe Faults wherein the Prieſt leads them, and himſelf blinded to Deſtruction, and unto the Woe pronounced to them, *Iſa.* 5. 20. *That call Evil Good, and Good Evil, that put Darkneſs for Light, and Light for Darkneſs, that put Bitter for Sweet, and Sweet for Bitter.* (9.) As is before mention'd, amongſt the Primitive Chriſtians the Election of the Miniſter was always by the Parochial Congregations, till Anti-Chriſt who began to work very early, deprived them of this liberty of Elections by Endowments and Patronages; the Patrons of which, by this Impoſing ſuch Patriarchs, Biſhops or Presbyters as they hired, and corrupted for their Turn, and depriving

priving the Cities and Congregations of the Free Election of their Paſtor, deſtroyed the Purity of Primitive Chriſtianity. (10.) The reſtoring again the Election of their own Miniſter to Parochial Congregations, and liberty of ſecret Suffrages, would, Firſt, deſtroy all Popery, for Popery cannot be without Patronages, and the Pope as the Apex of his Supremacy, claims to be Supreme Patron of all Catholick Churches. Secondly, This would prevent all Impoſing of Church-Papiſts to be Miniſters to Proteſtant-Pariſhes. Thirdly, This would prevent all kind of Symony, either to the Biſhop for Ordination, or Patron for Preſentation, which is impoſſible to be otherwiſe prevented, and ſuch Parochial Election is therefore better both for the Miniſter and the Pariſh; and the *Grand Seignior* may in this riſe in Judgment againſt Chriſtians, who allows no Patronages to Parochial Cures in his Dominions, but gives Liberty to every Pariſh to chooſe their own Prieſt, to whom he himſelf pays ſome ſmall Salarie out of the Publick Treaſury.

The loſs of Election of their own Miniſters, deſtroyed the Primitive Chriſtians.

No Patronages in the *Ottoman* Empire.

The Compulſion of Papiſts to Confeſſion of Faith, or any External Form or Ceremonies of Worſhip againſt their Conſcience by Penalties, cannot be done without bringing the Conſcience of the Proteſtant into the ſame danger with the Conſcience of the Papiſt; for if a Papiſt is permitted to be Indicted for Recuſancy, or Abſence from Church, a Proteſtant may on the ſame Penal Law be Indicted on the ſame; if a Papiſt is puniſh'd for Non-Conformity to any other Ceremony, a Proteſtant who as much diſſents from that Ceremony as a Papiſt, may be likewiſe puniſh'd by the ſame, and a *Legem quam tuleras ferat* be minded againſt him, and the Proteſtant be brought in a worſe Condition than the Papiſt, whenceſoever any Biſhop *Bancroft* or *Gundamore* gets a Pardon of all Penal Laws againſt the Papiſt, and their Execution ſharpen'd againſt the Diſſentient Proteſtant; ſo if an *Excommunicato Capiendo*, and Confiſcation thereon be granted to the Power of the Biſhop againſt the Papiſt or any Heretick, we ſee by experience it ſhall not be emitted againſt the Papiſt, but only againſt the Non-Conformiſt Proteſtant.

Liberty of Conſcience given Papiſts, ſecures Liberty of Conſcience to Proteſtants.

The Teſt of Oaths and Sacrament falls only on the Proteſtant, and not on the Papiſt, he hath Offices in Truſtee's names.

The Compulſion of Papiſts to Confeſſion of Faith, or any External Forms or Ceremonies of Worſhip by Penalties, or any illegal Proceedings, which deſtroy Liberty and Propriety in them, cannot be done without bringing the Liberty and Propriety of the Proteſtant into the ſame danger, as the Penalties by Statutes laid to compell Confeſſion of Faith and a Form of Worſhip, and the illegal proceeding on them, or without them, of beginning Suits with Original

Liberty and Propriety given Papiſts, ſecure the Liberty and Pro-

priety of Proteſtants.

Writs, Law, Execution, Summons before *Oblatio Libelli*, *Oblatio Libelli* before Oath of Calumny, Exaction of Pledges, Bail, Mainprize, Diſtreſſes, Condemning before Hearing, Judgment before Probation, Arreſt before Judgment, Outlawries and *Excommunicato Capiendo's*, are Penalties and Abuſes in the Forms of Judicial Proceeding, deſtructive and impoſſible to conſiſt with Liberty and Propriety in any Kingdom or State; now if any of theſe are permitted to Invade the Liberty and Propriety of the Papiſt, *Tua res agitur*, as well as his; it will be impoſſible for the Liberty and Propriety of the Proteſtant to eſcape, ſuch an Invaſion ſuffer'd to break in; unleſs therefore all the ſaid Abuſes are utterly Aboliſh'd, as well againſt the Papiſt as the Proteſtant, it is never to be hoped that Liberty or Propriety ſhall be enjoyed by either.

Compulſion to confeſſion of Faith, or Form of Worſhip, cauſeth Civil Wars.

It is impoſſible to prevent Seditions and Civil Wars, where there is practiſed in any Kingdom or State Compulſion of the Natives, who are but numerous enough to Raiſe an Army, to any Confeſſion of Faith or Form of Worſhip by Penalties; this Cruelty being practiſed by *Antiochus Epiphanes* againſt the *Jews*, Raiſed a great Rebellion and Wars againſt him in that Nation, as long as he lived, which Rebellion continued after his Death againſt *Antiochus Eupator* his Son, but the Son adviſing with wiſer Council than his Father had done, offer'd the *Jews* on a Capitulation the Free Liberty of enjoying their own Religion, which granted, they immediately agreed, and concluded a Peace with the King; *Lyſias* his General, after the Peace concluded Councell'd *Antiochus* to put *Menelaus* the High-Prieſt to Death, as the Evil Councellour who had been the occaſion of that Rebellion and War, by giving ſuch wicked Councel to his Father to compell the *Jews* to forſake their Religion; and the King underſtanding it, ſent *Menelaus* unto *Berœa* a City in *Syria*, and Commanded him there to be put to Death, he having before his being ſent thither been High-Prieſt for the ſpace of Ten Years, and made *Alcimus* High-Prieſt in his place; where appears, that to Councel a King to compell a Nation to a Form of Worſhip contrary to their Conſcience, tends only to the Advancement of Epiſcopal, and not of Regal Intereſt, and the Kings Perſon is expoſed to the hazard of the Battel, while the Biſhop Luxuriates in the delights of his Pallace; and this Evil Epiſcopal Councel to compell the People to his Confeſſion of Faith and Forms of Worſhip, hath not only been unfortunate to *Antiochus*, but to all Kings and Emperors who have truſted on the Staff of ſo bruiſed a Reed as a *Croſyer*, on which when they have leaned a while, in the end it will go into their

Epiſcopal Councels unfortunate to Kings, and why.

their hands and pierce them, for the Epiſcopal advice of Compulſion to Forms and Ceremonies, makes a Rich Biſhop, but a Poor King and People; and the Intereſt Regal and Epiſcopal, and the Law of the Crown and of the Canon being Diametrically oppoſite one to another, it is no wonder if the Councils of the later level always at its own Supremacy, and the Subjection of the former; ſuch was the Epiſcopal Council of the Biſhop of *Rome*, and *Spaniſh* Biſhops, to *Philip* the Second of *Spain*, for they Councell'd him to break his Oath to his Subjects of the *Netherlands*, whereby he had bound himſelf not to increaſe their ancient number of Biſhops, being but Three, to which he notwithſtanding, contrary to his Oath, added Fourteen, which no man doubts was highly for the Intereſt of the new Biſhops, and Biſhop of *Rome*; but every man may ſee, was clean contrary and deſtructive to the King's Intereſt; ſo they councell'd him to bring in the Inquiſition amongſt them, to cut off the Heads of the Proteſtant Nobles, to Maſſacre the Proteſtant People, all tending to the Advance of the *Romiſh* Epiſcopal Tyranny, but Deſtructive to Regal Government; and, what was the Succeſs of theſe Epiſcopal Councels, and Benedictions, of Perjury, and ſhedding of Blood, the whole Power of *Spain*, with all their *European* and *American* Dominions, were thereby diſabled to reduce ſo ſmall a Spot as the United parts of the *Netherlands*, and with infinite Loſſes and Diſhonour beaten thence, and loſt the Government ever ſince. Such Councels gave the *Romiſh*, and *German* Biſhops, to the Emperors, both in the time of *Luther*, and the Wars then, as likewiſe in thoſe later Wars, both in *Germany* and *Hungary*, to compell with Fire and Sword the Proteſtants to the Epiſcopal Forms and Ceremonies, highly no doubt to the Epiſcopal Intereſt, but Deſtructive to the Imperial, and what was the Succeſs? God hath been pleaſed to make the Proteſtants ſtronger and ſtronger, and the Emperors weaker and weaker, ever ſince *Charles* the Fifth, in whoſe time thoſe Wars began, and both he and his Succeſſors have been ſtill compell'd, before the Wars ended, to which they were ſet on by the Biſhops, Diſhonourably, and with Loſs, to condiſcend to a Free Exerciſe of Faith and Religion, which is more than a Non-Compulſion to Confeſſion of Faith and Form of Worſhip, which they might have Honourably, and before any Damage and Devaſtation to them, or their Countrey, have Granted, and would have been at firſt Honourably accepted. So in the Peace concluded between the Emperor and his Diſcontented Subjects in the Higher *Hungary*, *Anno Dom.* 1606. The firſt Article agreed on was, *That from thenceforth it ſhould be lawful for every man through the*

Kingdom of Hungary, *to have the free Exerciſe of his Religion, and to believe what he would*; and had not the Emperor been miſguided by Epiſcopal Councils to the contrary, he might with more Honour and leſs Damage to himſelf and Subjects, have prevented thoſe Inteſtine Diſſenſions, by not taking from them that Liberty of Conſcience, as to Faith and Form of Worſhip, which he was compell'd at laſt to give them; it being certain that the Bordering *Turk*, by the Imprudence of divers of the Emperors, in being blinded by the *Romiſh* Biſhops and their own, to violate the Liberty of Conſcience of thoſe Frontier Countries, and thereby dividing and diſuniting them againſt the Common Enemy, he hath thereof taken great advantages, to the great danger of the Emperors themſelves, the Empire, and the reſt of Chriſtendom. And how unfortunate were Epiſcopal Councils in our own Countrey, in this point of Compulſion of the Conſcience to their Faith, Forms and Ceremonies, tending to Epiſcopal, and not the Regal Intereſt, and how they thereby expoſed his late Majeſty, a Valiant, Wiſe and Pious King, and his Three Kingdoms, to an unneceſſary War; and the miſerable loſs enſued thereby, is yet in Bleeding Memory. What Wars have been in *France* by Compulſion of Conſcience by Force, and deſtroying it by Perfidious Treacheries of Epiſcopal Councils, is likewiſe ſadly known; ſo that in all the Kingdoms of Chriſtendom, Biſhops by this Compulſion to their Faith, Forms and Ceremonies, have one time or other raiſed Civil Wars and Diſſenſions, dangerous or deſtructive to Princes and People, and ſhared thereby the Spoils of both; or what was a greater Prey got by our own, made Sale of all the Eſtates of the Revenues of the Biſhopricks fallen Twenty Years before they ever made a Sermon in their Church, or Served at their Altar; ſo though the Wars were by themſelves occaſion'd and kindled, and were an univerſal loſs to the People, yet they loſt nothing, and gain'd all.

That Compulſion againſt Conſcience cauſeth Wars, doth likewiſe agree the Learned and Pious Doctor *More*, who ſaith, Denial of Liberty of Conſcience, brings upon Nations and Families Wars, Bloodſhed, Subverſion of Families, Depoſing, Stabbing, Poiſoning of Princes, perpetual Hatred and Enmity amongſt men, and all the Works and Actions of the Kindom of Darkneſs; whereas if it were univerſally acknowledged that Liberty of Religion were the Right of Mankind, all theſe miſchiefs would be prevented, the Prince could not pretend any Quarrel againſt the People, nor the People againſt the Prince, or againſt one another, except for Civil Rights, which are more plain and intelligible.

intelligible. That Compulſion to Faith, or Forms of Worſhip, hath had the ſame Deſtructive Effects againſt the *Eaſtern* Emperors likewiſe, which it hath had againſt the *Weſtern*, appears by the Example of *Michael Palæologus* Emperor of *Greece*, who fearing an Invaſion from the *Turks* and other Foreigners from the *Eaſt*, endeavour'd to ſtrengthen himſelf from the Pope, and by him with the Emperor and other Chriſtian Kings from the *Weſt*, and by his Ambaſſadors to that end, treated with *Gregory* the Tenth, then Pope of *Rome*, to Unite and Conform the *Greek* Church to the *Latine*, and to acknowledg the Popes Supremacy over the *Greeks*, and Liberty of Appeal from them to the Court of *Rome*, which the Emperor offer'd, and the Pope gladly accepted of; but the People generally abhor'd theſe Proceedings of the Emperor, and were ſo Tumultuous, that the Emperor was fain to leave off the care of the Foreign Dangers, to look to theſe greater at home, and told the People to quiet them, that this Alteration was made not out of any good liking he had to *it*, but in reſpect of the dangerous Eſtate of things in that juncture of Time, it behoved Prudence to admit the leſs Evil to avoid the greater; for if by not granting the *Latine* Church what they would have, they would take advantage of the Wars they had with their other Enemies, and fall on them at the ſame time, whereby they would attain more by force from them, than would ſatisfie them by Treaty, and not only by War become Lords of their Religion and Ceremonies, but of all at once, their Wives, Children, Eſtates and Lives, at the will of the Conqueror, therefore he required them to yield to neceſſity, and not to compell him to uſe more Severe Remedies; and not finding them pliable, ſome he Impriſon'd, ſome Baniſh'd, ſome Confiſcated, ſome pull'd out their Eyes, ſome Tortur'd, ſome Diſmembred, on which ſome outwardly Conformed, but not in their hearts, but the greater part fled, ſome to *Thrace*, ſome to *Achaia*, ſome to *Peloponeſus* and other Countries, and the Emperor truſting to Foreign Forces whom he joined, and this and his other Cruel Practices, in denying his Subjects Liberty of Conſcience; ſeeing they were put to Fight, only to confirm their own Slavery, ſo diſcouraged the *Greek* Army, that the *Turks* overthrew them and their Emperor, and won the day, by which they got their firſt Footing in *Europe*. Whereby appears, That as Compulſion to the Faith and Ceremonies of the Biſhop of *Rome*, and denial of Liberty of Conſcience to the firſt *Arrian* Chriſtians, was the cauſe of the great Conqueſts of *Mahomet*, who gave them Toleration in *Aſia*, which they could not have of the *Roman* Emperors; ſo this

denial

denial of Liberty of Conſcience by this *Greek* Emperor, and his Compulſion of his Subjects to the Ceremonies of the Biſhop of *Rome*, was the firſt opening an Entrance to the *Turk* into *Europe*, and after the loſing of the *Grecian* Empire to him, whence ſo many Fatal Miſeries have enſued to Chriſtendom.

By the Interruption of the Preſs, I am compell'd to break off this Book abruptly.